

Extra Ordinary Part - VI / 2005

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Extra No.1	13-01-2005	Legislative & Parliamentary Affairs Department
Extra No.2	13-01-2005	Legislative & Parliamentary Affairs Department
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances Promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 30th December, 2004.

No. RPB/41/2004/ORD-5-04/E :- The Following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 11th November 2004 is republished for general information :-

GOVERNMENT OF INDIA,

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 11th November, 2004/Kartika 20, 1926 (Saka)

THE ENFORCEMENT OF SECURITY INTEREST AND RECOVERY OF DEBTS LAWS (AMENDMENT) ORDINANCE, 2004

No. 5 of 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

An Ordinance to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004.

Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

CHAPTER II

AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT, 2002Amendment
of section 2.

2. In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter in this Chapter referred to as the principal Act), in sub-section (1),—

54 of 2002.

(i) after clause (h), the following clause shall be inserted, namely:—

“(ha) “debt” shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;”;

51 of 1993.

(ii) in clause (j), the words “in accordance with the directions or guidelines issued by the Reserve Bank” shall be omitted;

(iii) in clause (o), for the words “doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank”, the following shall be substituted, namely:—

“doubtful or loss asset,—

(a) in case such bank or financial institution is administered or regulated by any authority or body established, constituted or appointed by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body;

(b) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank”;

(iv) in clause (u), for the words “trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund”, the words, brackets and figures “trustee or securitisation company or reconstruction company which has been granted a certificate of registration under sub-section (4) of section 3 or any asset management company making investment on behalf of mutual fund” shall be substituted;

(v) in clause (zd), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) securitisation company or reconstruction company, whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be; or”.

Amendment
of section 3.

3. In section 3 of the principal Act, in sub-section (3), after clause (g), the following clause shall be inserted at the end, namely:—

“(h) that securitisation company or reconstruction company has complied with one or more conditions specified in the guidelines issued by the Reserve Bank for the said purpose.”.

Amendment
of section 4.

4. In section 4 of the principal Act, in sub-section (2),—

(a) the words “rejection of application for registration or” shall be omitted;

(b) for the words “such order of rejection or cancellation”, the words “such order of cancellation” shall be substituted.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 5A.

Transfer of pending applications to any one of Debts Recovery Tribunals in certain cases.

"5A. (1) If any financial asset, of a borrower acquired by a securitisation company or reconstruction company, comprise of secured debts of more than one bank or financial institution for recovery of which such banks or financial institutions has filed applications before two or more Debts Recovery Tribunals, the securitisation company or reconstruction company may file an application to the Appellate Tribunal having jurisdiction over any of such Tribunals in which such applications are pending for transfer of all pending applications to any one of the Debts Recovery Tribunals as it deems fit.

(2) On receipt of such application for transfer of all pending applications under sub-section (1), the Appellate Tribunal may, after giving the parties to the application an opportunity of being heard, pass an order for transfer of the pending applications to any one of the Debts Recovery Tribunals.

51 of 1993.

(3) Notwithstanding anything contained in the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, any order passed by the Appellate Tribunal under sub-section (2) shall be binding on all the Debts Recovery Tribunals referred to in sub-section (1) as if such order had been passed by the Appellate Tribunal having jurisdiction on each such Debts Recovery Tribunal.

51 of 1993.

(4) Any recovery certificate, issued by the Debts Recovery Tribunal to which all the pending applications are transferred under sub-section (2), shall be executed in accordance with the provisions contained in sub-section (23) of section 19 and other provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 shall, accordingly, apply to such execution."

6. In section 7 of the principal Act,—

Amendment of section 7.

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) (a) The scheme for the purpose of offering security receipts under sub-section (1) or raising funds under sub-section (2), may be in the nature of a trust to be managed by the securitisation company or reconstruction company, and the securitisation company or reconstruction company shall hold the assets so acquired or the funds so raised for acquiring the assets, in trust for the benefit of the qualified institutional buyers holding the security receipts or from whom the funds are raised.

2 of 1882.

(b) The provisions of the Indian Trusts Act, 1882 shall, except in so far as they are inconsistent with the provisions of this Act, apply with respect to the trust referred to in clause (a) above."

(ii) in sub-section (3), for the words "security receipts issued by such company", the words "security receipts issued under a scheme by such company" shall be substituted.

7. After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12A.

Power of Reserve Bank to call for statements and information.

"12A. The Reserve Bank may at any time direct a securitisation company or reconstruction company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of such securitisation company or reconstruction company (including any business or affairs with which such company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act."

8. In section 13 of the principal Act,—

Amendment of section 13.

(i) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) If, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower:

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A:

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt.”

(ii) in sub-section (4), for clause (b), the following clause shall be substituted, namely:—

“(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt.”

Amendment
of section 15.

9. In section 15 of the principal Act, in sub-section (1), for the words “When the management of business of a borrower is taken over by a secured creditor”, the words, brackets, letters and figures “When the management of business of a borrower is taken over by a securitisation company or reconstruction company under clause (a) of section 9 or, as the case may be, by a secured creditor under clause (b) of sub-section (4) of section 13” shall be substituted.

Amendment
of section 17.

10. In section 17 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “may prefer an appeal”, the words “may make an application along with such fee, as may be prescribed,” shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

“Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.”;

(iii) after the proviso as so inserted, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under sub-section (1) of section 17.”

(b) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management of the secured assets to the borrower or restoration of possession of the secured assets to the borrower, it may by order, declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured assets as invalid and restore the possession of the secured assets to the borrower or restore the management of the secured assets to the borrower, as the case may be, and pass such order as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.

(4) If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

(5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any part to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far may be, dispose of application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the rules made thereunder.”

51 of 1993.

11. After section 17 of the principal Act, the following section shall be inserted, namely:—

“17A. In the case of a borrower residing in the State of Jammu and Kashmir, the application under section 17 shall be made to the Court of District Judge in that State having jurisdiction over the borrower which shall pass an order on such application.

Explanation:—For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons shall not entitle the person (including borrower) to make an application to the Court of District Judge under this section.”

12. In section 18 of the principal Act,—

(a) in sub-section (1),—

Insertion of new section 17A.

Making of application to Court of District Judge in certain cases.

Amendment of section 18.

(i) for the words and figures "under section 17, may prefer an appeal", the words and figures "under section 17, may prefer an appeal along with such fee, as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (I), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

"Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:";

(iii) after the proviso as so inserted, the following provisos shall be inserted, namely:—

"Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso."

13. After section 18 of the principal Act, the following sections shall be inserted, namely:—

"18A. Any fee levied and collected for preferring, before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004, an appeal to the Debts Recovery Tribunal or the Appellate Tribunal under this Act, shall be deemed always to have been levied and collected in accordance with law as if amendments made to sections 17 and 18 of this Act by sections 11 and 12 of the said Ordinance were in force at all material times.

18B. Any borrower residing in the State of Jammu and Kashmir and aggrieved by any order made by the Court of District Judge under section 17A may prefer an appeal, to the High Court having jurisdiction over such Court, within thirty days from the date of receipt of the order of the Court of District Judge:

Provided that no appeal shall be preferred unless the borrower has deposited, with the Jammu and Kashmir High Court, fifty per cent. of the amount of the debt due from him as claimed by the secured creditor or determined by the Court of District Judge, whichever is less:

Provided further that the High Court may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of the debt referred to in the first proviso."

14. For section 19 of the principal Act, the following section shall be substituted, namely:—

"19. If the Debts Recovery Tribunal or the Court of District Judge, on an application made under section 17 or section 17A or the Appellate Tribunal or the High Court on an appeal preferred under section 18 or section 18A, holds that the possession of secured assets by the secured creditor is not in accordance with the provisions of this Act and rules made thereunder and directs the secured creditors to return such secured assets to the concerned borrowers, such borrower shall be entitled to the payment of such compensation and costs as may be determined by such Tribunal or Court of District Judge or Appellate Tribunal or the High Court referred to in section 18B."

Insertion of
new sections
18A and 18B.

Validation of
fees levied.

Appeal to
High Court in
certain cases.

Substitution
of new
section for
section 19.

Right of
borrower to
receive
compensation
and costs in
certain cases.

15. In section 25 of the principal Act,—

Amendment
of section 25

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) On receipt of intimation under sub-section (1), the Central Registrar shall order that a memorandum of satisfaction shall be entered in the Central Register.”;

(b) in sub-section (2), for the words “The Central Registrar shall, on receipt of such intimation”, the words, brackets and figures “If the concerned borrower gives an intimation to the Central Registrar for not recording the payment or satisfaction referred to in sub-section (1), the Central Registrar shall on receipt of such intimation” shall be substituted.

16. In section 28 of the principal Act, for the words and figures “under section 12”, the words, figures and letter “under section 12 or section 12A” shall be substituted.

Amendment
of section 28.

17. In section 31 of the principal Act, in clause (g), for the words “any properties not liable to attachment”, the words and brackets “any properties (including the properties specifically charged with the debt recoverable under this Act)” shall be substituted.

Amendment
of section 31.

18. In section 38 of the principal Act, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

Amendment
of section 38.

“(ba) the fee for making an application to the Debts Recovery Tribunal under sub-section (1) of section 17;

(bb) the form of making an application to the Appellate Tribunal under sub-section (6) of section 17;

(bc) the fee for preferring an appeal to the Appellate Tribunal under sub-section (1) of section 18.”.

CHAPTER III

AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

51 of 1993. 19. In section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereafter in this Chapter referred to as the principal Act), in clause (h), after sub-clause (i), the following sub-clause shall be inserted, namely:—

Amendment
of section 2.

54 of 2002. “(ia) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;”.

20. In section 19 of the principal Act, after sub-section (1), the following provisos shall be inserted, namely:—

Amendment
of section 19.

54 of 2002. “Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, if no such action had been taken earlier under that Act:

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.”.

CHAPTER IV

AMENDMENTS TO THE COMPANIES ACT, 1956

Amendment
of section
4A.

21. In section 4A of the Companies Act, 1956 (hereafter in this Chapter referred to as the principal Act), in sub-section (I), clause (vi) shall be omitted. 1 of 1956.

Amendment
of section
424A.

22. In section 424A of the principal Act, in sub-section (I), after the second proviso, the following provisos shall be inserted, namely:—

“Provided also that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004, such reference shall abate if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002:

54 of 2002.

Provided also that no reference shall be made under this section if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002.”

54 of 2002.

Sd/-

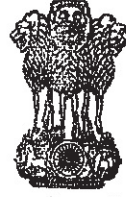
A. P. J. ABDUL KALAM,
President.

Sd/-

T. K. VISWANATHAN,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances Promulgated by the President
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar, 30th December, 2004.

No. RPB/42/2004/ORD-6-04/E :- The Following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 11th November 2004 is republished for general information :-

GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 11th November, 2004/Kartika 20, 1926 (Saka)

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ORDINANCE, 2004

No. 6 of 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of
India.

An Ordinance to constitute a National Commission for Minority Educational Institutions and to provide for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER 1

PRELIMINARY

1. (1) This Ordinance may be called the National Commission for Minority Educational Institutions Ordinance, 2004.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "affiliation" together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a Scheduled University;

(b) "college" means a college or teaching institution (other than a University) established or maintained by a person or group of persons from amongst a minority community;

(c) "Commission" means the National Commission for Minority Educational Institutions constituted under section 3;

(d) "degree" means any such degree as may, with previous approval of the Central Government, be specified in this behalf by the University Grants Commission, by notification in the Official Gazette;

(e) "Member" means a member of the Commission and includes the Chairperson;

(f) "minority", for the purpose of this Ordinance, means a community notified as such by the Central Government;

(g) "Minority Educational Institution" means a college or institution (other than a University) established or maintained by a person or group of persons from amongst the minorities;

(h) "prescribed" means prescribed by rules made under this Ordinance;

(i) "qualification" means a degree or any other qualification awarded by a University;

(j) "Scheduled University" means a University specified in the Schedule;

(k) "technical education" has the meaning assigned to it in clause (g) of section 2 of the All India Council for Technical Education Act, 1987;

52 of 1987.

(l) "University" means a university defined under clause (f) of section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act, or an institution specifically empowered by an Act of Parliament to confer or grant degrees.

3 of 1956.

CHAPTER II

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

Constitution of
National
Commission
for Minority
Educational
Institutions.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the National Commission for Minority Educational Institutions to exercise the powers conferred on, and to perform the functions assigned to it, under this Ordinance.

(2) The Commission shall consist of a Chairperson and two members to be nominated by the Central Government.

Qualifications
for appoint-
ment as
Chairperson or
other Member.

4. (1) A person shall not be qualified for appointment as the Chairperson unless he,—

(a) is a member of a minority community; and

(b) has been a Judge of a High Court.

(2) A person shall not be qualified for appointment as a Member unless he,—

(a) is a member of a minority community; and

(b) is a person of eminence, ability and integrity;

5. (1) Every Member shall hold office for a term of five years from the date on which he assumes office.

Term of office and conditions of service of Chairperson and Members.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person—

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court.

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) in the opinion of the Central Government, has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination and a person as nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed;

6. (1) The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Ordinance.

Officers and other employees of Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the Secretary, officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

7. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, officers and other employees referred to in section 6, shall be paid out of the grants referred to in sub-section (1) of section 14.

Salaries and allowances to be paid out of grants.

8. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of Commission.

9. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

Procedure to be regulated by Commission.

(2) the Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

CHAPTER III

RIGHT OF A MINORITY EDUCATIONAL INSTITUTION

Right of a
Minority
Educational
Institution to
seek affiliation
to a Scheduled
University.

10. Notwithstanding anything contained in any other law for the time being in force, a Minority Educational Institution may seek recognition as an affiliated college of a Scheduled University of its choice.

CHAPTER IV

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of
the Commis-
sion.

11. Notwithstanding anything contained in any other law for the time being in force, the Commission shall—

(a) advice the Central Government or any State Government on any question relating to the education of minorities that may be referred to it;

(b) look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a Scheduled University and report its findings to the Central Government for its implementation; and

(c) to do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.

Powers of
Commission.

12. (1) If any dispute arises between a minority educational institution and a Scheduled University relating to its affiliation to such University, the decision of the Commission thereon shall be final.

(2) The Commission shall, for the purposes of discharging its functions under this Ordinance, have all the powers of a civil court while trying a suit and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act 1872 requisitioning any public record or document or copy of such record or document from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

Financial and
administrative
powers of the
Chairperson.

13. The Chairperson shall exercise such financial and administrative powers as may be vested in him by the rules made under this section:

Provided that the Chairperson shall have authority to delegate such of the financial and administrative powers as he may think fit to any Member or Secretary or any other officer of the Commission subject to the condition that such Member or Secretary or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

14. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

Grants by the
Central
Government.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

15. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

16. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report.

17. The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 11 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

Annual report
and audit
report to be
laid before
Parliament.

CHAPTER VI

MISCELLANEOUS

18. The Central Government if deems fit may, by notification in the Official Gazette, add any other University to the Schedule or omit any University therefrom.

Power to
amend
Schedule.

19. The Chairperson, Members, the Secretary, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson,
Members,
Secretary,
employees, etc.
of the
Commission to
be public
servants.

45 of 1860.

20. (1) In the discharge of its functions under this Ordinance, the Commission shall be guided by such direction on questions of policy relating to national purposes, as may be given to it by the Central Government.

Directions by
the Central
Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final.

Protection
against action
taken in good
faith.

21. No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Members, Secretary or any officer or other employee of the Commission for anything which is in good faith done or intended to be done under this Ordinance.

Ordinance to
have overriding
effect.

22. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

Returns or
information.

23. The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power to make
rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) salaries and allowances payable to, and the other terms and conditions of the service of, the Chairperson and Members under sub-section (5) of section 5 and of the Secretary, officers and other employees under sub-section (2) of section 6;

(b) the financial and administrative powers to be exercised by the Chairperson under section 13;

(c) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 15;

(d) the form in, and the time at, which the annual report shall be prepared under section 16;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

25. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient, for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

THE SCHEDULE

[See section 2 (j)]

Sl. No.	Name of the University
1.	University of Delhi
2.	North Eastern Hill University
3.	Pondicherry University
4.	Assam University
5.	Nagaland University
6.	Mizoram University

Sd/-

A. P. J. ABDUL KALAM,
President.

Sd/-

T. K. VISWANATHAN,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances Promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar, 25th January, 2005.

No. RPB/1/2005/ORD-7-04/E :- The Following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 26th December, 2004 is republished for general information :-

GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 26th December, 2004/Pausa 5, 1926 (Saka)

THE PATENTS (AMENDMENT) ORDINANCE, 2004

No. 7 OF 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

An Ordinance further to amend the Patents Act, 1970.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Patents (Amendment) Ordinance, 2004

(2) Sub-clause (ii) of clause (a), and clause (b), of section 37, sections 41, 42, 47, 58 to 62 (both inclusive) and 73 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions shall come into force on the 1st day of January, 2005.

Short title and
commence-
ment.

Amendment
of section 2.

2. In section 2 of the Patents Act, 1970 (hereinafter referred to as the principal Act), in sub-section (1),—

(a) after clause (ab), the following clause shall be inserted, namely:—

“(aba) “Budapest Treaty” means the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure done at Budapest on 28th day of April, 1977, as amended and modified from time to time;”

(b) in clause (d), for the words, brackets and figure “notified as such under sub-section (1) of section 133”, the words and figures “referred to as a convention country in section 133” shall be substituted;

(c) clause (g) shall be omitted;

(d) in clause (h),—

(i) in sub-clause (iii), after the words and figures “the Companies Act, 1956”, the word “; or” shall be inserted;

1 of 1956.

(ii) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) by an institution wholly or substantially financed by the Government;”;

(iii) the words “and includes the Council of Scientific and Industrial Research and any other institution which is financed wholly or for the major part by the said Council;” shall be omitted;

(e) for clause (i), the following clause shall be substituted, namely:—

“(i) “High Court”, in relation to a State or Union territory, means the High Court having territorial jurisdiction in that State or Union territory, as the case may be;”

(f) for clauses (l) and (m), the following clauses shall be substituted, namely:—

“(l) “Opposition Board” means an Opposition Board constituted under sub-section (4) of section 25;

(m) “patent” means a patent for any invention granted under this Act;”

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in clause (d), for the words “new use”, the words “mere new use” shall be substituted;

(b) for clause (k), the following clauses shall be substituted, namely:—

“(k) a computer programme *per se* other than its technical application to industry or a combination with hardware;

(ka) a mathematical method or a business method or algorithms;”

Omission of
section 5.

4. Section 5 of the principal Act shall be omitted.

Amendment
of section 7.

5. In section 7 of the principal Act,—

(a) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) The filing date of an application referred to in sub-section (1A) and its complete specification processed by the patent office as designated office or elected office shall be the international filing date accorded under the Patent Cooperation Treaty.”;

(b) in sub-section (3), for the word "owner", the word "person" shall be substituted;

(c) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Every such application (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) shall be accompanied by a provisional or a complete specification."

6. In section 8 of the principal Act,—

Amendment
of section 8.

(a) in sub-section (1),—

(i) for the words "within such period as the Controller may, for good and sufficient reasons, allow", the words "within the prescribed period as the Controller may allow" shall be substituted;

(ii) in clause (b), for the words "upto the date of the acceptance of his complete specification filed in India", the words "upto the date of grant of patent in India" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) At any time after an application for patent is filed in India and till the grant of a patent or refusal to grant of patent made thereon, the Controller may also require the applicant to furnish details, as may be prescribed, relating to the processing of the application in a country outside India, and in that event the applicant shall furnish to the Controller information available to him within such period as may be prescribed."

7. In section 9 of the principal Act,—

Amendment
of section 9.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a provisional specification, a complete specification shall be filed within twelve months from the date of filing of the application, and if the complete specification is not so filed, the application shall be deemed to be abandoned.";

(b) in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that the period of time specified under sub-section (1) shall be reckoned from the date of filing of the earliest provisional specification.";

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a specification purporting to be a complete specification, the Controller may, if the applicant so requests at any time within twelve months from the date of filing of the application, direct that such specification shall be treated, for the purposes of this Act, as a provisional specification and proceed with the application accordingly.";

(d) in sub-section (4), for the words "the acceptance of the complete specification", the words "grant of patent" shall be substituted.

8. In section 10 of the principal Act,—

Amendment
of section 10.

(a) in sub-section (3), for the words "before the acceptance of the application", the words "before the application is found in order for grant of a patent" shall be substituted;

(b) in sub-section (4), in the proviso,—

(i) in clause (ii), for the words “the material to an authorised depository institution as may be notified by the Central Government in the Official Gazette”, the words “the material to an international depository authority under the Budapest Treaty” shall be substituted;

(ii) for sub-clause (A), the following sub-clause shall be substituted, namely:—

“(A) the deposit of the material shall be made not later than the date of filing the patent application in India and a reference thereof shall be made in the specification within the prescribed period;”;

(c) for sub-section (4A), the following sub-section shall be substituted, namely:—

“(4A) In case of an international application designating India, the title, description, drawings, abstract and claims filed with the application shall be taken as the complete specification for the purposes of this Act.”

Amendment
of section 11.

9. In section 11 of the principal Act,—

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where a complete specification based on a previously filed application in India has been filed within twelve months from the date of that application and the claim is fairly based on the matter disclosed in the previously filed application, the priority date of that claim shall be the date of the previously filed application in which the matter was first disclosed.”;

(b) in sub-section (6), after the brackets and figure “(3)”, the brackets, figure and letter “(3A),” shall be inserted.

Amendment
of section
11A.

10. In section 11A of the principal Act,—

(a) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:—

“(1) Save as otherwise provided, no application for patent shall ordinarily be open to the public for such period as may be prescribed.

(2) The applicant may, in the prescribed manner, request the Controller to publish his application at any time before the expiry of the period prescribed under sub-section (1) and subject to the provisions of sub-section (3), the Controller shall publish such application as soon as possible.

(3) Every application for a patent shall, on the expiry of the period specified under sub-section (1), be published, except in cases where the application—

(a) in which secrecy direction is imposed under section 35; or

(b) has been abandoned under sub-section (1) of section 9; or

(c) has been withdrawn three months prior to the period specified under sub-section (1).”;

(b) in sub-section (4), for the words “of eighteen months”, the words, brackets and figure “prescribed under sub-section (1)” shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) On and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application.”

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted:

Provided further that the rights of a patentee in respect of applications made under sub-section (2) of section 5 before the 1st day of January, 2005 shall accrue from the date of grant of the patent."

11. In section 11B of the principal Act,—

Amendment
of section
11B.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) No application for a patent shall be examined unless the applicant or any other interested person makes a request in the prescribed manner for such examination within the prescribed period;"

(b) sub-section (2) shall be omitted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) In case of an application in respect of a claim for a patent filed under sub-section (2) of section 5 before the 1st day of January, 2005 a request for its examination shall be made in the prescribed manner and within the prescribed period by the applicant or any other interested person;"

(d) in sub-section (4),—

(i) the words, brackets and figure "or sub-section (2)" shall be omitted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that—

(i) the applicant may, at any time after filing the application but before the grant of a patent, withdraw the application by making a request in the prescribed manner; and

(ii) in a case where secrecy direction has been issued under section 35, the request for examination may be made within the prescribed period from the date of revocation of the secrecy direction.";

12. In section 12 of the principal Act,—

Amendment
of section 12.

(a) in sub-section (1), for the words, brackets, figures and letter "under sub-section (1) or sub-section (2) or sub-section (3) of section 11B, the application and specification and other documents shall be referred to by the Controller", the words, brackets, figures and letter "under sub-section (1) or sub-section (3) of section 11B, the application and specification and other documents related thereto shall be referred at the earliest by the Controller" shall be substituted;

(b) in sub-section (2), for the words "a period of eighteen months from the date of such reference", the words "such period as may be prescribed" shall be substituted.

13. In section 13 of the principal Act, in sub-section (3), for the words "it has been accepted", the words "the grant of a patent" shall be substituted.

Amendment
of section 13.

14. For sections 14 and 15 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 14
and 15.
Consideration
of the report
of examiner
by Controller.

"14. Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, the Controller, before proceeding

to dispose of the application in accordance with the provisions hereinafter appearing, shall communicate as expeditiously as possible the gist of the objections to the applicant and shall, if so required by the applicant within the prescribed period, give him an opportunity of being heard.

Power of
Controller to
refuse or
require
amended
applications,
etc., in
certain cases.

Amendment
of section 16.

15. Where the Controller is satisfied that the application or any specification or any other document filed in pursuance thereof does not comply with the requirements of this Act or of any rules made thereunder, the Controller may refuse the application or may require the application, specification or the other documents, as the case may be, to be amended to his satisfaction before he proceeds with the application and refuse the application on failure to do so."

15. In section 16 of the principal Act,—

(a) in sub-section (1), for the words "before the acceptance of the complete specification", the words "before the grant of the patent" shall be substituted;

(b) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"Explanation.— For the purposes of this Act, the further application and the complete specification accompanying it shall be deemed to have been filed on the date on which the first mentioned application had been filed, and the further application shall be proceeded with as a substantive application and be examined when the request for examination is filed within the prescribed period."

Amendment
of section 17.

16. In section 17 of the principal Act, in sub-section (1), for the words "before acceptance of the complete specification", the words "before the grant of the patent" shall be substituted.

Amendment
of section 18.

17. In section 18 of the principal Act,—

(a) in sub-section (1), for the words "to accept the complete specification", the words "the application" shall be substituted;

(b) sub-section (4) shall be omitted.

Amendment
of section 19.

18. In section 19 of the principal Act, in sub-section (1), the words and figures "by the foregoing provisions of this Act or of proceedings under section 25", the words "under this Act" shall be substituted.

Substitution
of new
section for
section 21.

19. For section 21 of the principal Act, the following section shall be substituted, namely:—

Time for
putting
application in
order for
grant.

"21. (1) An application for a patent shall be deemed to have been abandoned unless, within such period as may be prescribed, the applicant has complied with all the requirements imposed on him by or under this Act, whether in connection with the complete specification or otherwise in relation to the application from the date on which the first statement of objections to the application or complete specification or other documents related thereto is forwarded to the applicant by the Controller.

Explanation.— Where the application for a patent or any specification or, in the case of a convention application or an application filed under the Patent Cooperation Treaty designating India any document filed as part of the application has been returned to the applicant by the Controller in the course of the proceedings, the applicant shall not be deemed to have complied with such requirements unless and until he has re-filed it or the applicant proves to the satisfaction of the Controller that for the reasons beyond his control such document could not be re-filed.

(2) If at the expiration of the period as prescribed under sub-section (1),—

(a) an appeal to the High Court is pending in respect of the application for the patent for the main invention; or

(b) in the case of an application for a patent of addition, an appeal to the High Court is pending in respect of either that application or the application for the main invention, the time within which the requirements of the Controller shall be complied with shall, on an application made by the applicant before the expiration of the period as prescribed under sub-section (1), be extended until such date as the High Court may determine.

(3) If the time within which the appeal mentioned in sub-section (2) may be instituted has not expired, the Controller may extend the period as prescribed under sub-section (1), to such further period as he may determine:

Provided that if an appeal has been filed during the said further period, and the High Court has granted any extension of time for complying with the requirements of the Controller, then the requirements may be complied with within the time granted by the Court."

20. Sections 22 to 24 of the principal Act shall be omitted.

Omission of sections 22 to 24.

21. Chapter IVA of the principal Act shall be omitted.

Omission of Chapter IVA.

22. In Chapter V of the principal Act, for the Chapter heading "OPPOSITION TO GRANT OF PATENT", the Chapter heading "REPRESENTATION AND OPPOSITION PROCEEDINGS" shall be substituted.

Substitution of heading of Chapter V.

23. For sections 25 and 26 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 25 and 26.

"25. (1) Where an application for a patent has been published but a patent has not been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent on the ground of—

Opposition to the patent.

(a) patentability including novelty, inventive step and industrial applicability, or

(b) non-disclosure or wrongful mentioning in complete specification, source and geographical origin of biological material used in the invention and anticipation of invention by the knowledge, oral or otherwise available within any local or indigenous community in India or elsewhere,

and the Controller shall consider and dispose of such representation in such manner and within such period as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the person making a representation referred to in that sub-section shall not become a party to any proceedings under this Act only for the reason that he has made such representation.

(3) At any time after the grant of patent but before the expiry of a period of one year from the date of publication of grant of a patent, any person interested may give notice of opposition to the Controller in the prescribed manner on any of the following grounds, namely:—

(a) that the patentee or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims;

(b) that the invention so far as claimed in any claim of the complete specification has been published before the priority date of the claim—

(i) in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an anticipation of the invention by virtue of sub-section (2) or sub-section (3) of section 29;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the claim of the patentee and filed in pursuance of an application for a patent in India, being a claim of which the priority date is earlier than that of the claim of the patentee;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India before the priority date of that claim.

Explanation.—For the purposes of this clause, an invention relating to a process for which a patent is granted shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only;

(e) that the invention so far as claimed in any claim of the complete specification is obvious and clearly does not involve any inventive step, having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed;

(h) that the patentee has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge;

(i) that in the case of a patent granted on convention application, the application for patent was not made within twelve months from the date of the first application for protection for the invention made in a convention country or in India by the patentee or a person from whom he derives title;

(j) that the complete specification does not disclose or wrongly mentions the source and geographical origin of biological material used for the invention;

(k) that the invention so far as claimed in any claim of the complete specification was anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere,

but on no other ground.

(+) (a) Where any such notice of opposition is duly given under sub-section (3), the Controller shall notify the patentee.

(b) On receipt of such notice of opposition, the Controller shall, by order in writing, constitute a Board to be known as the Opposition Board consisting of such

officers as he may determine and refer such notice of opposition along with the documents to that Board for examination and submission of its recommendations to the Controller.

(c) Every Opposition Board constituted under clause (b) shall conduct the examination in accordance with such procedure as may be prescribed.

(5) On receipt of the recommendation of the Opposition Board and after giving the patentee and the opponent an opportunity of being heard, the Controller shall order either to maintain or to amend or to revoke the patent.

(6) While passing an order under sub-section (5) in respect of the ground mentioned in clause (d) or clause (e) of sub-section (3), the Controller shall not take into account any personal document or secret trial or secret use.

(7) In case the Controller issues an order under sub-section (5) that the patent shall be maintained subject to amendment of the specification or any other document, the patent shall stand amended accordingly.

26. (1) Where in any opposition proceeding under this Act the Controller finds that—

(a) the invention, so far as claimed in any claim of the complete specification, was obtained from the opponent in the manner set out in clause (a) of sub-section (3) of section 25 and revokes the patent on that ground, he may, on request by such opponent made in the prescribed manner, direct that the patent shall stand amended in the name of the opponent;

(b) a part of an invention described in the complete specification was so obtained from the opponent, he may pass an order requiring that the specification be amended by the exclusion of that part of the invention.

(2) Where an opponent has, before the date of the order of the Controller requiring the amendment of a complete specification referred to in clause (b) of sub-section (1), filed an application for a patent for an invention which included the whole or a part of the invention held to have been obtained from him and such application is pending, the Controller may treat such application and specification in so far as they relate to the invention held to have been obtained from him, as having been filed, for the purposes of this Act relating to the priority dates of claims of the complete specification, on the date on which the corresponding document was or was deemed to have been filed by the patentee in the earlier application but for all other purposes the application of the opponent shall be proceeded with as an application for a patent under this Act."

24. Section 27 of the principal Act shall be omitted.

In cases of "obtaining" controller may treat the patent as the patent of opponent.

Omission of section 27.

25. In section 28 of the principal Act,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A request or claim under the foregoing provisions of this section shall be made before the grant of patent.";

(b) sub-section (5) shall be omitted;

(c) in sub-section (6), for the words, brackets and figure "Subject to the provisions of sub-section (5), where", the word "Where" shall be substituted.

Amendment of section 28.

26. In section 31 of the principal Act, for the words "not later than six months", the words "not later than twelve months" shall be substituted.

Amendment of section 31.

27. In section 34 of the principal Act, the words "to accept complete specification for a patent or" shall be omitted.

Amendment of section 34.

Amendment
of section 35

28. In section 35 of the principal Act, in sub-section (3), for the words "acceptance of complete specification", the words "grant of patent" shall be substituted.

Amendment
of section 36.

29. In section 36 of the principal Act, in sub-section (1), for the words "twelve months", the words "six months" shall be substituted.

Amendment
of section 37.

30. In section 37 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words "to accept", the words "to grant" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that the application may, subject to the directions, proceed up to the stage of grant of the patent, but the application and the specification found to be in order for grant of the patent shall not be published, and no patent shall be granted in pursuance of that application.";

(b) in sub-section (2), for the words "is accepted", the words "is found to be in order for grant of the patent" shall be substituted.

Substitution
of new
section for
section 39.

Residents not
to apply for
patents
outside India
without prior
permission.

31. For section 39 of the principal Act, the following section shall be substituted, namely:—

"39. (1) No person resident in India shall, except under the authority of a written permit sought in the manner prescribed and granted by or on behalf of the Controller, make or cause to be made any application outside India for the grant of a patent for an invention unless—

(a) an application for a patent for the same invention has been made in India, not less than six weeks before the application outside India; and

(b) either no direction has been given under sub-section (1) of section 35 in relation to the application in India, or all such directions have been revoked.

(2) The Controller shall dispose of every such application within such period as may be prescribed:

Provided that if the invention is relevant for defence purpose or atomic energy, the Controller shall not grant permit without the prior consent of the Central Government.

(3) This section shall not apply in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India."

Substitution
of heading of
Chapter VIII.

32. In Chapter VIII of the principal Act, for the Chapter heading "GRANT AND SEALING OF PATENTS AND RIGHTS CONFERRED THEREBY", the Chapter heading "GRANT OF PATENTS AND RIGHTS CONFERRED THEREBY" shall be substituted.

Substitution
of new
section for
section 43.

33. For section 43 of the principal Act, the following section shall be substituted, namely:—

Grant of
patents.

"43. (1) Where an application for a patent has been found to be in order for grant of the patent and either—

(a) the application has not been refused by the Controller by virtue of any power vested in him by this Act; or

(b) the application has not been found to be in contravention of any of the provisions of this Act,

the patent shall be granted as expeditiously as possible to the applicant or, in the case of a joint application, to the applicants jointly, with the seal of the patent office and the date on which the patent is granted shall be entered in the register.

(2) On the grant of patent, the Controller shall publish the fact that the patent has been granted and thereupon the application, specification and other documents related thereto shall be open for public inspection."

34. In section 44 of the principal Act, for the word "sealed", at both the places where it occurs, the word "granted" shall be substituted.

Amendment
of section 44.

35. In section 45 of the principal Act, in sub-section (3), for the words "the date of advertisement of the acceptance of the complete specification", the words "the date of publication of the application" shall be substituted.

Amendment
of section 45.

36. In section 48 of the principal Act, the proviso shall be omitted.

Amendment
of section 48.

37. In section 52 of the principal Act,—

Amendment
of section 52.

(a) in sub-section (1),—

(i) for the opening words "Where a patent has been revoked", the words and figures "Where the patent has been revoked under section 64" shall be substituted;

(ii) for the word, "court", wherever it occurs, the words "Appellate Board or court" shall be substituted;

(b) in sub-section (2), for the word "court", occurring at both the places, the words "Appellate Board or court" shall be substituted.

38. In section 53 of the principal Act,—

Amendment
of section 53.

(a) after sub-section (1), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this sub-section, the term of patent in case of International applications filed under the Patent Cooperation Treaty designating India, shall be twenty years from the international filing date accorded under the Patent Cooperation Treaty."

(b) in sub-section (2), for the words "or within that period as extended under this section", the words "or within such extended period as may be prescribed" shall be substituted;

(c) sub-section (3) shall be omitted.

39. In section 54 of the principal Act,—

Amendment
of section 54.

(a) in sub-section (3), for the words "complete specification", occurring at both the places, the word "application" shall be substituted;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A patent of addition shall not be granted before grant of the patent for the main invention."

40. In section 57 of the principal Act,—

Amendment
of section 57.

(a) for sub-section (3), the following sub-section shall be substituted, namely:

"(3) Any application for leave to amend an application for a patent or a complete specification or a document related thereto under this section made after the grant of patent and the nature of the proposed amendment may be published."

(b) in sub-section (4),—

(i) for the word "advertised", the word "published" shall be substituted;

(ii) for the word "advertisement", the word "publication" shall be substituted;

(c) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The provisions of this section shall be without prejudice to the right of an applicant for a patent to amend his specification or any other document related thereto to comply with the directions of the Controller issued before the grant of a patent."

Substitution
of new
section for
section 58.

41. For section 58 of the principal Act, the following section shall be substituted, namely:—

Amendment
of specifica-
tion before
appellate
Board or
High Court.

"58. (1) In any proceeding before the Appellate Board or the High Court for the revocation of a patent, the Appellate Board or the High Court, as the case may be, may, subject to the provisions contained in section 59, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise, as the Appellate Board or the High Court may think fit, and if, in any proceedings for revocation, the Appellate Board or the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

(2) Where an application for an order under this section is made to the Appellate Board or the High Court, the applicant shall give notice of the application to the Controller, and the Controller shall be entitled to appear and be heard, and shall appear if so directed by the Appellate Board or the High Court.

(3) Copies of all orders of the Appellate Board or the High Court allowing the patentee to amend the specification shall be transmitted by the Appellate Board or the High Court to the Controller who shall, on receipt thereof, cause an entry thereof and reference thereto to be made in the register."

Amendment
of section 59.

42. In section 59 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where after the date of grant of patent any amendment of the specification or any other documents related thereto is allowed by the Controller or by the Appellate Board or the High Court, as the case may be,—

(a) the amendment shall for all purposes be deemed to form part of the specification along with other documents related thereto;

(b) the fact that the specification or any other documents related thereto has been amended shall be published as expeditiously as possible; and

(c) the right of the applicant or patentee to make amendment shall not be called in question except on the ground of fraud."

Amendment
of section 60.

43. In section 60 of the principal Act, in sub-section (1), for the words, brackets and figures "prescribed period or within that period as extended under sub-section (3) of section 53", the words, figures and brackets "period prescribed under section 53 or within such period as may be allowed under sub-section (4) of section 142" shall be substituted.

Amendment
of section 61.

44. In section 61 of the principal Act, in sub-section (1), for the words "advertise the application", the words "publish the application" shall be substituted.

45. In section 62 of the principal Act,—

(a) in sub-section (1), for the word “advertisement”, the word “publication” shall be substituted;

(b) in sub-section (2), for the words “date of the advertisement”, the words “date of publication” shall be substituted.

Amendment
of section 62.

46. In section 63 of the principal Act,—

(a) in sub-section (2), for the word “advertise”, the word “publish” shall be substituted;

(b) in sub-section (3), for the words “such advertisement”, the words “such publication” shall be substituted.

Amendment
of section 63.

47. In section 64 of the principal Act, in sub-section (1), for the words “on the petition of any person interested or of the Central Government or on a counter-claim in a suit for infringement of the patent, be revoked by the High Court”, the words “be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court” shall be substituted.

Amendment
of section 64.

48. For section 65 of the principal Act, the following section shall be substituted, namely:—

“65. (1) Where at any time after grant of a patent, the Central Government is satisfied that a patent is for an invention relating to atomic energy for which no patent can be granted under sub-section (1) of section 20 of the Atomic Energy Act, 1962, it may direct the Controller to revoke the patent, and thereupon the Controller, after giving notice, to the patentee and every other person whose name has been entered in the register as having an interest in the patent, and after giving them an opportunity of being heard, may revoke the patent.

Substitution
of new
section for
section 65.

(2) In any proceedings under sub-section (1), the Controller may allow the patentee to amend the complete specification in such manner as he considers necessary instead of revoking the patent.”

Revocation
of patent or
amendment
of complete
specification
on directions
from
Government
in cases
relating to
atomic
energy.

49. For section 68 of the principal Act, the following section shall be substituted, namely:—

“68. An assignment of a patent or of a share in a patent, a mortgage, licence or the creation of any other interest in a patent shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations and duly executed.”

Substitution
of new
section for
section 68.

Assignments,
etc., not to
be valid
unless in
writing and
duly
executed.

50. In section 74 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Central Government may, by notification in the Official Gazette, specify the name of the Patent Office.”

Amendment
of section 74.

51. In section 78 of the principal Act,—

(a) in sub-section (4), for the word “advertised”, the word “published” shall be substituted;

(b) in sub-section (5), for the words “such advertisement”, the words “such publication” shall be substituted.

Amendment
of section 78.

Amendment
of section 87.

52. In section 87 of the principal Act, in sub-section (1), for the words "shall advertise the application in the Official Gazette", the words "shall publish the application in the official journal" shall be substituted.

Amendment
of section 90.

53. In section 90 of the principal Act, in sub-section (1), for clause (vii), the following shall be substituted, namely:—

"(vii) that in the case of semi-conductor technology, the licence granted is to work the invention for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive;

(viii) that the licence is granted with a predominant purpose of supplying in the Indian market;

Provided that the licensee may also export the patented product in accordance with section 92A:

Provided further that in case the licence is granted to remedy a practice determined after judicial or administrative process to be anti-competitive, the licensee shall be permitted to export the patented product."

Insertion of
new section
92A.

54. After section 92 of the principal Act, the following section shall be inserted, namely:—

"92A. (1) Compulsory licence shall be available for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems, provided compulsory licence has been granted by such country:

(2) The Controller shall, on receipt of an application in the prescribed manner, grant a compulsory licence solely for manufacture and export of the concerned pharmaceutical product to such country under such terms and conditions as may be specified and published by him.

(3) The provisions of sub-sections (1) and (2) shall be without prejudice to the extent to which pharmaceutical products produced under a compulsory license can be exported under any other provision of this Act.

Explanation.—For the purposes of this section, 'pharmaceutical products' means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address public health problems and shall be inclusive of ingredients necessary for their manufacture and diagnostic kits required for their use."

Amendment
of section
100.

55. In section 100 of the principal Act, in sub-section (3), for the words "the acceptance of the complete specification in respect of the patent", the words "grant of the patent" shall be substituted.

Amendment
of section
105

56. In section 105 of the principal Act, in sub-section (4), for the words "after the date of advertisement of acceptance of the complete specification of a patent", the words "after the publication of grant of a patent" shall be substituted.

Amendment
of section
107A.

57. In section 107A of the principal Act,—

(a) in clause (a),—

(i) for the words "using or selling", the words "using, selling or importing" shall be substituted;

(ii) for the words "use or sale," the words "use, sale or import" shall be substituted;

(b) in clause (b), for the words "who is duly authorised by the patentee to sell or distribute the product", the words "who is duly authorised under the law to produce and sell or distribute the product" shall be substituted.

58. In section 113 of the principal Act,—

Amendment
of section
113.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If in any proceedings before the Appellate Board or a High Court for the revocation of a patent under section 64 and section 104, as the case may be, the validity of any claim of a specification is contested and that claim is found by the Appellate Board or the High Court to be valid, the Appellate Board or the High Court may certify that the validity of that claim was contested in those proceedings and was upheld."

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Nothing contained in this section shall be construed as authorising the courts or the Appellate Board hearing appeals from decrees or orders in suits for infringement or petitions for revocation, as the case may be, to pass orders for costs on the scale referred to therein."

38 of 2002. 59. In section 116 of the principal Act [as substituted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (2), clause (c) shall be omitted

Amendment
of section
116.

38 of 2002. 60. In section 117A of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (2), for the words and figures "section 20, section 25, section 27, section 28", the words, figures and brackets "section 20, sub-sections (5) of section 25, section 28" shall be substituted.

Amendment
of section
117A.

61. In section 117D of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (1), for the words, "for rectification of the register", the words and figures "for revocation of a patent before the Appellate Board under section 64 and an application for rectification of the register" shall be substituted."

Amendment
of section
117D.

38 of 2002. 62. For section 117G of the principal Act [as inserted by the Patents (Amendment) Act, 2002], the following section shall be substituted, namely:—

Substitution
of new
section for
section 117G.

"117G. All cases of appeals against any order or decision of the Controller and all cases pertaining to revocation of patent other than on a counter-claim in a suit for infringement and rectification of register pending before any High Court, shall be transferred to the Appellate Board from such date as may be notified by the Central Government in the Official Gazette and the Appellate Board may proceed with the matter either *de novo* or from the stage it was so transferred."

Transfer of
pending
proceedings
to Appellate
Board.

63. In section 120 of the principal Act, for the words, "ten thousand rupees", the words "one lakh rupees" shall be substituted.

Amendment
of section
120.

64. In section 122 of the principal Act, in sub-section (1), for the words, "twenty thousand rupees", the words "ten lakh rupees" shall be substituted.

Amendment
of section
122.

65. In section 123 of the principal Act, for the words, "ten thousand rupees in the case of a first offence and forty thousand rupees", the words "one lakh rupees in the case of a first offence and five lakh rupees" shall be substituted.

Amendment
of section
123.

66. In section 126 of the principal Act,—

Amendment
of section
126.

(a) in sub-section (1), in clause (c), sub-clause (i) shall be omitted;

38 of 2002. (b) in sub-section (2), for the words, brackets and figures "the Patents (Amendment) Act, 2002", the words, "the Patents (Amendment) Ordinance, 2004" shall be substituted.

Substitution
of new
section for
section 133.

67. For section 133 of the principal Act, the following section shall be substituted, namely:—

Convention
countries.

“133. Any country, which is a signatory or party or a group of countries, union of countries or intergovernmental organizations which are signatories or parties to an international, regional or bi-lateral treaty, convention or arrangement to which India is also a signatory or party and which affords to the applicants for patents in India or to citizens of India similar privileges as are granted to their own citizens or citizens to their member countries in respect of the grant of patents and protection of patent rights shall be a convention country or convention countries for the purposes of this Act.”

Amendment
of section
135.

68. In section 135 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) In case of an application filed under the Patent Cooperation Treaty designating India and claiming priority from a previously filed application in India, the provisions of sub-sections (1) and (2) shall apply as if the previously filed application were the basic application:

Provided that a request for examination under section 11B shall be made only for one of the applications filed in India.”

Amendment
of section
138.

69. In section 138 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where a convention application is made in accordance with the provisions of this Chapter, the applicant shall furnish, when required by the Controller, in addition to the complete specification, copies of the specifications or corresponding documents filed or deposited by the applicant in the patent office of the convention country as referred to in section 133 verified to the satisfaction of the Controller, within the prescribed period from the date of communication by the Controller.”

Amendment
of section
142.

70. In section 142 of the principal Act, in sub-section (4), for the words, “the complete specification”, the words, “the application” shall be substituted.

Substitution
of new
section for
section 143.

71. For section 143 of the principal Act, the following section shall substituted, namely:—

Restrictions
upon
publication of
specification.

“143. Subject to the provisions of Chapter VII, an application for a patent, and any specification filed in pursuance thereof, shall not, except with the consent of the applicant, be published by the Controller before the expiration of the period prescribed under sub-section (1) of section 11A or before the same is open to public inspection in pursuance of sub-section (3) of section 11A or section 43.”

Substitution
of new
sections for
section 145.

72. For section 145 of the principal Act, the following section shall substituted, namely:—

Publication
of official
journal.

“145. The Controller shall publish periodically an official journal which shall contain such information as may be required to be published by or under the provisions of this Act or any rule made thereunder.”

Amendment
of section
151.

73. In section 151 of the principal Act,—

(a) in sub-section (1), for the words, “the High Court”, occurring at the places, the words “the High Court or the Appellate Board” shall be substituted;

(b) in sub-section (3), for the word “courts”, the words “Appellate Board or the courts, as the case may be,” shall be substituted.

74. Section 152 of the principal Act shall be omitted.

Omission of
section 152.

75. In section 159 of the principal Act,—

Amendment
of section
159.

(i) in sub-section (2),—

(a) for clauses (ia) and (ib), the following clauses shall be substituted, namely:—

“(ia) the period which the Controller may allow for filing of statement and undertaking for in respect of applications under sub-section (1), the period within which the details relating to processing of applications may be filed before the Controller and the details to be furnished by the applicant to the Controller under sub-section (2) of section 8;

(ib) the period within which a reference to the deposit of materials shall be made in the specification under sub-clause (4) of clause (1) of the proviso to sub-section (4) of section 10;

(ic) the period for which application for patent shall not be open to the public under sub-section (1) and the manner in which the applicant may make a request to the Controller to publish his application under sub-section (2) of section 11A;

(id) the manner of making the request for examination for an application for patent and the period within which such examination shall be made under sub-sections (1) and (3) of section 11B;

(ie) the manner in which an application for withdrawal of an application for grant of a patent shall be made and the period within which a request for examination from the date of revocation of secrecy directions shall be made under the proviso to sub-section (4) of section 11B.”;

(b) in clause (ii), for the word “advertised”, the words “published” shall be substituted;

(c) for clause (v), the following clauses shall be substituted, namely:—

“(v) the manner in which and the period within which the Controller shall consider and dispose off a representation under sub-section (1) of section 25;

(va) the period within which the Controller is required to dispose off an application under section 39;”;

(ii) in sub-section (3), the following proviso shall be added at the end, namely:—

“Provided that the Central Government may, if it is satisfied that circumstances exist which render it practically not possible to comply with such condition of previous publication, dispense with such compliance.”.

76. Section 163 of the principal Act shall be omitted.

Omission of
section 163.

77. (1) Notwithstanding the omission of Chapter IVA of the principal Act by section 21 of this Ordinance, every application for the grant of exclusive marketing rights filed under that Chapter before the 1st day of January, 2005, in respect of a claim for a patent covered under sub-section (2) of section 5 of the principal Act, such application shall be deemed to be treated as a request for examination for grant of patent under sub-section (3) of section 11B the principal Act, as amended by this Ordinance.

Transitional
provision.

(2) Every exclusive right to sell or distribute any article or substance in India granted before the 1st day of January, 2005 shall continue to be effective with the same terms and conditions on which it was granted.

(3) Without prejudice to any of the provisions of the principal Act, the applications in respect of which exclusive rights have been granted before the 1st day of January, 2005 shall be examined for the grant of patent immediately on the commencement of this Ordinance.

(4) All suits relating to infringement of the exclusive right granted before 1st day of January, 2005 shall be dealt with in the same manner as if they were suits concerning infringement of patents under Chapter XVIII of the principal Act.

(5) The examination and investigation required as carried out for the grant of exclusive right shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.

Sd/-

A. P. J. ABDULKALAM,
President.

Sd/-

T. K. VISHWANATHAN,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalya, Gandhinagar, 25th January, 2005.

No. : RPB/2/2005/Ordi-8-05/E.--The following Ordinance promulgated by the President and published in the Gazette of India, Extra Ordinary, Part-II, Section-1, dated the 29th December, 2004 is republished for general information

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, 29th December, 2004/Pausa 8, 1926,
(Saka)

THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ORDINANCE, 2004

No. 8 of 2004

Promulgated by the President in the Fifty-Fifth Year of the Republic of India.

An Ordinance to provide for the establishment of an Authority to promote old age income security by establishing, developing and regulating pension funds, to protect the interests of subscribers to schemes of pension funds and for matters connected there with or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

1.(1) This Ordinance may be called the Pension Fund Regulatory and Development Authority Ordinance, 2004.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India

(3) It shall come into force at once.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) “Authority” means the Pension Fund Regulatory and Development Authority established under sub-section (1) of section (3);

(b) “Central Record keeping agency” means an agency registered under section 24 to perform the functions of record keeping, accounting, administration and customer service for subscribers to schemes;

(c) “chairperson” means the chairperson of the authority;

(d) “individual pension account” means an account of a subscriber, executed by a contract setting out the terms and conditions under the New Pension System;

(e) “intermediary” includes pension fund, central record keeping agency, pension fund adviser, retirement adviser, point of presence and such other person or entity connected with collection, management, record keeping and distribution of accumulations;

(f) “member” means a member of the Authority and includes its Chairperson;

(g) “New Pension System” means an the contributory pension system referred to in section 20 whereby contributions from a subscriber are collected in an individual pension account using points of presence and central record keeping agency and accumulated by pension funds for pay offs as specified by regulations;

(h) “Notification” means a notification published in the official gazette;

(i) “pension fund” means an entity registered with the Authority under sub-section (3) of section 24 as a pension fund for receiving contributions, accumulating them and making payments to the subscriber in the manner specified by regulations;

(j) “Pension Regulatory and Development Fund” means the fund constituted under sub section (1) section 37;

(k) “point of presence” means an entity registered with the Authority under sub-section (3) of section 24 as a point of presence and capable of electronic connectivity with the central record keeping agency for the purposes of receiving and transmitting funds and instructions and pay out of funds;

(l) “prescribed” means prescribed by rules made under this Ordinance;

(m) “regulated assets” means the assets and properties, both tangible and intangible, owned, leased or developed by and other rights belonging to, the central recordkeeping agency;

(n) “regulations” means regulations made by the Authority under this Ordinance;

(o) “scheme” means a scheme of pension fund approved by the Authority under this Ordinance;

(p) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(q) “subscriber” includes a person who subscribes to a scheme of a pension fund;

(r) “Subscriber Education and Protection Fund” means the fund constituted under sub-section (1) of section 38;

(2) Words and expressions used and not defined in this Ordinance, but defined in-

15 of 1992

(i) the Securities and Exchange Board of India Act, 1992;

42 of 1956

(ii) the Securities Contracts (Regulation) Act, 1956;

1 of 1956

(iii) the Companies Act, 1956; and

4 of 1938

(iv) the Insurances Act, 1938,

shall have the meanings respectively assigned to them under those Acts.

CHAPTER II

PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY

3.(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Ordinance, an Authority to be called the Pension Fund Regulatory and Development Authority.

Establishment and incorporation of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

2 of 1985.

(4) The Authority may establish offices at other places in India.

4. The Authority shall consist of a Chairperson and not more than five members, of whom at least three shall be whole-time members, to be appointed by the Central Government from amongst persons of ability, integrity and standing and having experience and knowledge in economics, finance, law or administrative matters with at least one person from each discipline.

Composition of Authority.

5. (1) The Chairperson and every whole-time member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Term of office and conditions of service of Chairperson and members of Authority.

Provided that no person shall hold office as the Chairperson after he has attained the age of sixty-five years:

Provided further that no person shall hold office as a whole-time member after he has attained the age of sixty-two years.

(2) A part-time member shall hold office as such for a term not exceeding five years from the date on which he enters upon his office.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a member may--

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 6.

Removal of members from office.

6. (1) The Central Government may remove from office the Chairperson or any other member who—

- (a) is, or at any time has been adjudged as insolvent ; or
- (b) has become physically or mentally incapable of acting as a member; or
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
- (e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) No such Chairperson or other member shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Salary and allowances of Chairperson and members.

7. (1) The salary and allowances payable to, and other terms and conditions of service of, the member other than part-time members shall be such as may be prescribed.

(2) The part-time members shall receive such allowances as may be prescribed.

(3) The salary, allowances and other conditions of service of a member shall not be varied to his disadvantage after his appointment.

Bar on future employment of members.

8. The chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

- (a) any employment either under the Central Government or under any State Government; or
- (b) any appointment in any regulated entity in the pension sector.

Administrative powers of Chairperson.

9. The chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Meetings of the Authority.

10. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meeting (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority and the member shall not take part in any deliberation or decision of the Authority with respect to that matter.

(5) The Authority may make regulations for the transaction of business at its meetings.

11. No act or proceeding of the Authority shall be invalid merely by reason of—

Vacancies etc.,
not to invalidate
proceedings of
the Authority.

(a) any vacancy in, or any defect in the constitution of, the Authority ; or

(b) any defect in the appointment of a person acting as a member of the Authority ; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

12.(1) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Ordinance.

Officers and
employees of
the Authority.

(2) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

EXTENT AND APPLICATION

13.(1) This Ordinance shall apply to—

Extent and
Application.

(a) the New Pension System ;

(b) any other pension scheme not regulated by any other enactment.

(2) Every pension scheme referred to in clause (b) shall conform to the regulations made by the Authority within such time as may be specified in the regulations.

(3) Notwithstanding anything contained in sub-section (1), the provisions of this Ordinance shall not apply to—

(a) the schemes or funds under—

19 of 1952.

(i) the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ;

46 of 1948.

(ii) the Coal Mines Provident Fund and miscellaneous Provisions Act, 1948 ;

Assam Act X of
1955.

(iii) the Assam Tea Plantations Provident Fund and Pension Fund Scheme Act, 1955 ;

Jammu and
Kashmir Act
XV of 1961.

(iv) the Jammu and Kashmir Employees' Provident Fund Scheme Act, 1961 ; and

4 of 1966.

(v) the Seamen's Provident Fund Act, 1966 ;

4 of 1938.

(b) contracts referred to in sub-section (11) of section 2 of the Insurance Act, 1938 ;

(c) any other pension scheme, which the Central Government may, by notification, exempt from the application of this Ordinance ;

61 of 1951.

(d) persons appointed before the 1st day of January, 2004 to public services in connection with the affairs of the Union, or to All-India Services constituted under section 2A of the All-India Services Act, 1951 ;

(e) persons appointed to public services in connection with the affairs of

any state, or such Union territories as may be specified by notification by the Central Government.

(4) Notwithstanding anything contained in sub-section (3), any State Government may, by notification, extend the New Pension System to its employees.

(5) Any person governed under any of the schemes or funds referred to in sub-section (3) may, at his option, join the New Pension System.

CHAPTER IV

DUTIES, POWERS AND FUNCTIONS OF AUTHORITY

Duties, Powers and Functions of Authority

14.(1) Subject to the provisions of this Ordinance and any other law for the time being in force, the Authority shall have the duty, to regulate, promote and ensure orderly growth of the New Pension System and pension schemes to which this Ordinance applies and, to protect the interests of subscribers of such System and schemes.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include-

(a) regulating the New Pension System and the pension schemes to which this Ordinance applies;

(b) approving schemes, the terms and conditions thereof and laying down norms for the management of the corpus of the pension funds, including investment guidelines under such schemes;

(c) registering and regulating intermediaries;

(d) issuing to an intermediary, on application, a certificate of registration and renewing, modifying, withdrawing, suspending or cancelling such registration.

(e) protecting the interests of subscribers to the pension funds;

(f) establishing mechanism for redressing grievances of subscribers to be determined by regulations;

(g) promoting professional organisations connected with the pension system;

(h) adjudication of disputes between intermediaries and between intermediaries and subscribers;

(i) collecting data and requiring the intermediaries to collect such data and undertaking and commissioning studies, research and projects;

(j) undertaking steps for educating subscribers and the general public on issues relating to pension, retirement savings and related issues and training of intermediaries;

(k) standardising dissemination of information about performance of pension funds and performance bench marks;

(l) regulating the regulated assets;

(m) levying fees or other charges for carrying out the purposes of this Ordinance;

(n) specifying by regulations the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediaries;

(o) calling for information from, undertaking inspection of, conducting inquiries and investigations including audit of, intermediaries and other entities or organisations connected with pension funds;

(p) exercising such other powers and functions as may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clause (o) of sub-section (2), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person or entity referred to in section 24, at any place;

(iv) issuing commissions for the examination of witnesses or documents;

(v) any other matter which may be prescribed.

(4) Without prejudice to the provisions contained in sub-sections (1), (2) and (3) and section 15, the Authority may, by order, for reasons to be recorded in writing, in the interests of subscribers, take any of the following measures, either pending investigation or inquiry, namely:—

(i) restrain persons from participating in any scheme;

(ii) restrain any office bearer of an intermediary from acting as such;

(iii) impound and retain the proceeds under the scheme in respect of any activity which is under investigation;

(iv) attach, after passing an order, on an application made for approval, by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the scheme in any manner involved in violation of any of the provisions of this Ordinance or the rules or the regulations made thereunder:

Provided that only the bank account or accounts or any transaction entered therein, relating to the proceeds actually involved in the violation of any of the provisions of this Ordinance or the rules or the regulations made thereunder shall be allowed to be attached ;

(v) direct any intermediary or any person associated with the scheme in any manner not to dispose of or alienate an asset forming part of any activity which is under investigation:

Provided that the Authority shall, either before or after, passing such orders, under this section, give to such intermediaries or persons concerned an opportunity of being heard.

**Power to
issue
directions.**

15. Save as otherwise provided in section 14, if after making, or causing to be made, an inquiry, the Authority is satisfied that it is necessary—

(i) in the interests of subscribers or orderly development of New Pension System or a pension scheme to which this Ordinance applies; or

(ii) to prevent the affairs of any intermediary or other persons or entities referred to in section 24 being conducted in a manner detrimental to the interests of subscribers; or

(iii) to secure the proper management of any such intermediary or person or entity,

it may issue such directions to such intermediaries or entities or to any person or class of persons referred to in section 24, or associated with the pension fund, as it may deem fit:

Provided that the Authority shall, either before or after passing such orders, give an opportunity of hearing to such intermediaries, entities or persons concerned.

**Powers of
investigation.**

16. (1) Where the Authority has a reasonable ground to believe that—

(a) the activities of the pension fund are being conducted in a manner detrimental to the interest of the subscriber; or

(b) any intermediary or any person associated with the schemes of the pension fund has violated any of the provisions of this Ordinance or the rules or the regulations made or directions issued by the Authority thereunder,

it may, at any time, by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the pension fund and to report thereon to the Authority.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956, it shall be the duty of every manager, managing director, officer and other employee of the company, in case of a company and every intermediary referred to in section 24 or every person associated with the pension fund to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

1 of 1956.

(3) The Investigating Authority may require any intermediary or any person associated with the pension fund in any manner to furnish such information to, or produce such books, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or register, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with the pension fund by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any book, register, other documents and record if they are needed again:

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents or record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents or, as the case may be, record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath any intermediary or any person associated with the pension fund in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(6) If any person fails without reasonable cause or refuses-

(a) to produce to an Investigating Authority or any person authorised by him in this behalf any book, register, other document or record which it is his duty under sub-section (1) or sub-section (3) to furnish; or

(b) to furnish any information which it is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7);

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to twenty five crore rupees, or with both, and also with a further fine which may extend to ten lakh rupees for every day after the first day during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

17. (1) Where the Authority, in consequence of information in its possession, has reason to believe that-

(a) any person who has been required under sub-section (3) of section 16 to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents; or

Search and seizure.

(b) any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation under sub-section (1) of section 16; or

(c) a contravention of any provision of this Ordinance has been committed or is likely to be committed by an intermediary, or

(d) any claim which is due to be settled by the intermediary, has been or is likely to be rejected or settled at a figure higher than a reasonable amount, or

(e) any claim which is due to be settled by an intermediary, has been or is likely to be rejected or settled at a figure lower than a reasonable amount, or

(f) any illegal fees and charges have been transacted or are likely to be transacted by an intermediary, or

(g) any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an intermediary are likely to be tampered with, falsified or manufactured,

it may authorise any officer of the Authority, not below the rank equivalent to that of a Gazetted Officer of the Government (hereafter referred to as the authorised officer), to-

(i) enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept;

(ii) break open the lock of any box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available.

(iii) seize all or any such books, accounts or other documents, found as a result of such search;

(iv) place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.

(2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such police officer or officer to comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (1), serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Ordinance.

(5) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (1) shall not be retained by the authorised officer for a period Exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Authority for such retention is obtained;

Provided that the Authority shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Ordinance, for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant, are completed.

(6) The person from whose custody the books, accounts, papers, receipts, Vouchers, reports or other documents are seized under sub-section (1) may make copies thereof, or take extracts there from, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf,

(7) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized under sub-section (1) objects for any reason to the approval given by the Authority under sub-section (5), he may make an application to the Central Government stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, report or other documents.

(8) On receipt of the application under sub-section (7), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit.

2 of 1974.

(9) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall apply, so far as may be, to every search and seizure made under sub-section (1).

(10) The Central Government may, by notification, make rules in relation to any search or seizure under this section and in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer,-

(i) for obtaining ingress into such building or place to be searched where free ingrees thereto is not available;

(ii) for ensuring safe custody of any books, accounts, papers, receipts vouchers, reports, or other documents seized under this section.

18. If the Authority finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Ordinance, or any rule or regulation made thereunder, the Authority may pass an order requiring such person to cease and desist from committing or causing such violation.

Power of
Authority to
ensure
compliance.

19. (1) If at any time the Authority has reason to believe that the central record keeping agency or pension fund is acting in a manner likely to be prejudicial to the interests of subscribers, it may, after giving the central recordkeeping agency or pension fund, as the case may be, an opportunity of being heard, make a report thereon to the Central Government.

Management by
Administrator.

(2) If the Central Government, after considering the report made under sub-section (1) is of the opinion, that it is necessary or proper to do so, it may appoint an Administrator to manage the affairs of the central recordkeeping agency or pension fund, as the case may be, under the direction and control of the Authority, in such manner as may be specified by notification.

CHAPTER V NEW PENSION SYSTEM

20. The contributory pension system notified by the Government of India in the Ministry of Finance Vide notification number F. No. 5/7/2003-ECB & PR dated the 22nd December, 2003, as amended from time to time, and having the following basic features, shall form the New Pension System under this Ordinance, namely:-

New Pension
System.

(a) every subscriber shall have an individual pension account;

(b) the functions of recordkeeping, accounting and switching of options by the subscriber shall be effected by the central recordkeeping agency;

(c) there shall be a choice of multiple pension fund managers and multiple schemes;

(d) there shall be portability of individual pension accounts in case of change of employment;

(e) collection and transmission of contributions and instructions shall be through points of presence to the central recordkeeping agency;

(f) there shall not be any implicit or explicit assurance of benefits except market based guarantee mechanism to be purchased by the Subscriber;

(g) a subscriber shall not exit from the New Pension System except as specified by the Central Government by notification;

(h) at exit, the subscriber shall purchase an annuity from a life insurance company as specified under the New Pension System.

Central
recordkeeping
agency.

21. (1) The Authority shall, by granting a certificate of registration under sub-section (3) of section 24, appoint a central recordkeeping agency:

Provided that the Authority may, in public interest, appoint more than one central recordkeeping agency.

(2) The central recordkeeping agency shall be responsible for receiving funds and instructions from subscribers through the points of presence, transmitting such instructions and transferring such funds to pension funds, effecting switching instructions received from subscribers and discharging such other duties and functions, as may be assigned to it under the certificate of registration or as may be determined by regulations.

(3) All the assets and properties owned, leased or developed by the central recordkeeping agency, shall constitute regulated assets and upon expiry of certificate of registration or earlier revocation thereof, the Authority shall be entitled to appropriate and take over the regulated assets, either by itself or through an administrator or a person nominated by it in this behalf:

Provided that the central recordkeeping agency shall be entitled to be compensated the fair value, to be ascertained by the Authority, of such regulated assets as determined by regulations:

Provided further that where the earlier revocation of the certificate of registration is based on violation of the conditions in the certificate of registration or the provisions of this Ordinance or regulations, unless otherwise determined by the Authority, the central recordkeeping agency shall not be entitled to claim any compensation in respect of such regulated assets.

Point of
presence.

22. (1) The Authority may, by granting a certificate of registration under sub-section (3) of section 24, permit one or more persons to act as a point of presence or points of presence for the purpose of receiving contributions and instructions, transmitting them to the central record keeping agency and paying out benefits to subscribers in accordance with the regulations made by the Authority from time to time in this regard.

(2) A point of presence shall function in accordance with the terms of its certificate of registration and the regulations made under this Ordinance.

23. (1) The Authority may, by granting a certificate of registration under

sub-section (3) of section 24, permit one or more persons to act as a pension fund for the purpose of receiving contributions, accumulating them and making payments to the subscriber in such manner as may be specified by regulations.

Pension Funds.

(2) The number of pension funds shall be determined by regulations and the Authority may, in public interest, vary the number of pension funds.

(3) The pension fund shall function in accordance with the terms of its certificate of registration and the regulations made under this Ordinance.

(4) The pension fund shall manage the scheme in accordance with the regulations.

CHAPTER VI

REGISTRATION OF INTERMEDIARIES

24. (1) No intermediary, including a pension fund or a point of presence to the extent regulated under this Ordinance, shall commence any activity relating to a pension fund except under and in accordance with the conditions of a certificate of registration granted by the Authority in accordance with provisions of this Ordinance and the regulations:

Registration of central recordkeeping agency, pension fund, point of presence, etc.

Provided that any intermediary, including any point of presence, who may be associated with a scheme of pension fund immediately before the establishment of the Authority for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months till the disposal of such application.

(2) Every application for grant of a certificate of registration under this Ordinance shall be in such form and manner and shall be accompanied by such fees as may be determined by regulations;

(3) The Authority may, after considering the application and subject to such terms and conditions as it may specify, grant a certificate of registration as a central record keeping agency, point of presence, pension fund or such other intermediary, as the case may be.

(4) The Authority may, by order, suspend or cancel a certificate of registration granted under sub-section (3) in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

CHAPTER VII

PENALTIES AND ADJUDICATION

25. (1) Any person, who is required under this Ordinance or any rules or regulations made thereunder,—

Penalty for failure by an intermediary or any other person to comply with provisions of the Act, rules, regulations and directions.

(a) to obtain a certificate of registration from the Authority for carrying on any activity under this Ordinance, carries on such activities without obtaining such certificate of registration, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or one crore rupees, whichever is less;

(b) to comply with the terms and conditions of certificate of registration fails to do so, he shall be liable to a penalty of one lakh rupees for each day during which failure continues or one crore rupees, whichever is less;

(c) to furnish any information, document, books, returns or report to the

Authority, fails to furnish the same within the time specified by the Authority, he shall be liable to a penalty which may extend to one crore rupees or five times the amount of profits made or losses avoided, whichever is higher;

(d) to maintain books of accounts or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or five times the amount of profits made or losses avoided, whichever is higher.

(2) If any person, who is required under this Ordinance or any rules or regulations made thereunder, to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or five times the amount of profits made or losses avoided, whichever is higher.

(3) If any intermediary registered with the Authority, after having been called upon by the Authority, in writing, to redress the grievances of subscribers, fails to redress such grievances within the time stipulated by the Authority, he shall be liable to a penalty of not more than one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

(4) If any person, who is registered under this Ordinance as an intermediary, fails to segregate moneys of the client or clients or uses the moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

(5) Whoever fails to comply with any provision of this Ordinance, the rules or the regulation made or the directions issued by the Authority under the provisions of this Ordinance for which no separate penalty has been provided, he shall be liable to a penalty which may extend to one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

Crediting
sums realised
by way of
penalties to
Subscriber
Education and
Protection
Fund.

26. (1) All sums realised by way of penalties under this Ordinance shall be credited to the Subscriber Education and Protection Fund established under sub-section (1) of section 38.

Power to
adjudicate.

27. (1) For the purposes of adjudging under section 25, the Authority shall appoint any of its officers not below the rank specified by regulations to be an adjudicating officer for holding an inquiry as determined by regulations, after giving the person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the matters referred to in section 25, he may recommend such penalty as he thinks fit in accordance with the provisions of that section, to the member in charge of investigation and surveillance.

(3) The penalty shall be imposed by a member other than the member in charge of investigation and surveillance :

Provided that while adjudging the quantum of penalty under section 25, the

member shall have due regard to the following factors, namely:-

- (a) amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) amount of loss caused to a subscriber or group of subscribers; and
- (c) the repetitive nature of the default.

28. (1) Any person aggrieved may apply to the Authority for an interim measure or protection in respect of any of the following matters, namely:-

Attachment of assets and supercession of management of intermediary.

- (a) the detention, preservation, interim custody or sale of any asset or property which is regulated by the provisions of this Ordinance;
- (b) securing any pension funds, monies and other assets and properties owned by or under the control of the pension fund;
- (c) interim injunction or appointment of an administrator; and
- (d) such other interim measures as may appear to the Authority to be just and necessary,

and the Authority shall have power to make such orders including an order for attachment of assets of the pension fund as it deems fit in this regard.

(2) Where, on a complaint received by the Authority or suo motu, the Authority, after conducting an enquiry comes to a conclusion that the governing board or board of directors, by whatever name called, or the persons in control of any intermediary to the extent regulated under this Ordinance are indulging in any activity which is in contravention of the provisions of this Ordinance or regulations, it may supersede the governing board or board of directors or management of the intermediary in accordance with the provisions of the regulations.

29. (1) Without prejudice to any award of penalty by the member under this Ordinance, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Ordinance or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty five crore rupees or with both.

Offences.

(2) If any person fails to pay the penalty imposed by the member or fails to comply with any of the directions or orders issued by the member, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years; or with fine, which may extend to twenty five crore rupees or with both.

30. (1) The Central Government may, on the recommendation by the Authority, if satisfied, that any person, who is alleged to have violated any of the provisions of this Ordinance or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this ordinance, or the rules or the regulations made there under also from the imposition of any penalty under this Ordinance with respect to the alleged violation:

Power to grant immunity.

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Authority under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Ordinance to which such person would have been liable, had no such immunity been granted.

**Exemption
from tax on
wealth, in-
come, profits
and gains.**

31. Notwithstanding anything contained in-

(i) the Wealth Tax Act, 1957;

27 of 1957.

(ii) the Income Tax Act, 1961, or

43 of 1961.

(iii) any other enactment for the time being in force relating to tax on wealth, income, profits or gains,

the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of its wealth, income, profits or gains derived.

**Cognizance of
offences by
Court.**

32. (1) No court shall take cognizance of any offence punishable under this Ordinance or any rules or regulations made thereunder, save on a complaint made by the Authority.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Ordinance.

**Appeal to the
Securities
Appellate
Tribunal.**

33. (1) Any person aggrieved by an order made by the Authority or by an adjudicating officer under this Ordinance may prefer an appeal before the Securities Appellate Tribunal which shall have jurisdiction over the matter.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date of receipt of the order appealed against and it shall be in such form and manner and shall be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the Authority, the parties to the appeal and to the adjudicating officers concerned.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date on which the appeal is presented to it.

15 of 1992.

(6) Without prejudice to the provisions of sections 15T and 15U of the Securities and Exchange Board of India Act, 1992, the Securities Appellate Tribunal shall deal with an appeal under this section in accordance with such procedure as may be as prescribed.

34. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Ordinance or a Securities Appellate Tribunal is empowered by or under this Ordinance to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

Civil court not to have jurisdiction.

35. Any person aggrieved by any decision or order of the Securities Appellate Tribunal under this Ordinance may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Appeal to Supreme Court.

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT

36. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as that Government may think fit for being utilised for the purposes of this Ordinance.

Grants by Central Government.

37. (1) There shall be constituted a fund to be called the Pension Regulatory and Development Fund and there shall be credited thereto-

Constitution of Pension Regulatory and Development Fund.

(a) all Government grants, fees and charges received by the Authority;

(b) all sums received by the Authority from such other source as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting-

(a) the salaries, allowances and other remuneration of the Chairperson and other members and officers and other employees of the Authority;

(b) other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Ordinance.

38. (1) The Authority shall establish a fund to be called the Subscriber Education and Protection Fund.

Constitution of Subscriber Education and Protection Fund.

(2) There shall be credited to the Subscriber Education and Protection Fund the following amounts, namely:-

(a) grants and donations given to the Subscriber Education and Protection Fund by the Central Government, State Government, companies or any other institutions for the purposes of the Subscriber Education and Protection Fund.

(b) the interest or other income received out of the investments made from the Subscriber Education and Protection Fund;

(c) the sums realised by way of penalties by the Authority under section 26.

(3) The Subscriber Education and Protection Fund shall be administered and utilised by the Authority for protection of the interests of subscribers in accordance with regulations made for the purpose.

**Accounts and
Audit.**

39. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India as such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The Accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER IX MISCELLANEOUS

**Power of
Central
Government
to issue
directions on
issues of
policy.**

40. (1) Without prejudice to the foregoing provisions of this Ordinance, the Authority shall, in exercise of its powers or the performance of its functions under this Ordinance, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

**Power of
Central
Government to
supercede the
Authority.**

41. (1) If at any time the Central Government is of the opinion that-

(a) on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Ordinance ; or

(b) the Authority has persistently defaulted in complying with any direction issued by the Central Government that the Central Government is entitled to issue under this Ordinance or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Ordinance and as a result of such default the financial position of the Authority or the administration of the Authority has deteriorated; or

(c) circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority-

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Ordinance, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the Central Government; and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of superseesion specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority.

(4) The Central Government shall, as soon as may be, cause a copy of the notification issued under sub-section (1) and a full report of any action taken by it to be laid before each House of Parliament.

42. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the pension industry as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within nine months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities including the activities for promotion and development of schemes of pension funds regulated under this Ordinance during the previous financial year.

(3) Copies of the reports received under sub-section (2) shall be laid, as soon as may be, after they are received, before each House of Parliament.

43. The Chairperson and other members and officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of the Authority to be public servants.

45 of 1860.

44. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Ordinance or the rules or regulations made there under.

Protection of action taken in good faith.

45. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance if he prove that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the Companies such director, manager secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

46. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;-

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and whole-time members under sub-section (1) of section 7;

(b) the allowances payable to part-time members under sub-section (2) of section 7;

(c) the additional functions which may be performed by the Authority under clause (p) of sub-section (2) of section 14;

(d) any other matter in respect of which the Authority may exercise the powers of a civil court under clause (v) of sub-section (3) of section 14;

(e) the procedure to be followed by the authorised officer under sub-section (10) of section 17;

(f) the form and manner in which an appeal may be filed before the Securities Appellate Tribunal and the fee which shall accompany such appeal, under sub-section (2) of section 33;

(g) the procedure to be followed by the Securities Appellate Tribunal in dealing with an appeal, under sub-section (6) of section (2) of section 33;

(h) the form in which annual Statement of accounts shall be maintained by the Authority under sub-section (1) of section 39;

(i) the time within which and the form and manner in which returns and reports are to be made by the Authority to the Central Government under sub-section (1) of section 42;

(j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

47. (1) The Authority may, by notification, make regulations consistent with this Ordinance and the rules made thereunder to carry out the provision of this Ordinance. **Power to make regulations.**

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings (including the quorum at such meetings) under sub-section (1) of section 10;

(b) the transactions of business at the meetings of the Authority under sub-section (5) of section 10;

(c) the terms and other conditions of service of the officers and other employees of the Authority under sub-section (2) of section 12;

(d) the regulations to be made by the Authority in respect of pension schemes referred to in clause (b) of sub-section (1) of section 13 and the time within which such schemes should conform to the regulations, made under sub-section (2) of that section;

(e) the establishing of mechanisms for redressing grievances of subscribers under clause (f) of sub-section (2) of section 14;

(f) the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediaries under clause (n) of sub-section (2) of section 14;

(g) the duties and functions of central recordkeeping agency under sub-section (2) of section 21;

(h) the determination of compensation of fair value of the regulated assets payable to central recordkeeping agency under proviso to sub-section (3) of section 21;

(i) the manner of receiving contributions and instructions and transmitting them to the central recordkeeping agency and paying out the benefits to the subscribers, under sub-section (1) and the regulations governing functioning of points of presence under sub-section (2), of section 22;

(j) the manner in which a pension fund may receive contributions, accumulate them and make payments to the subscriber under sub-section (1), the number of pension funds under sub-section (2), the functioning of the pension fund under sub-section (3), and the manner of managing the schemes by the pension fund under sub-section (4), of section 23;

(k) the form and manner in which an application for grant of certificate of registration shall be made and the fee which shall accompany such application under sub-section (2) of section 24;

(l) the conditions subject to which a certificate of registration may be granted to an intermediary under sub-section (3) of section 24;

(m) the procedure and manner of suspension or cancellation of certificate of registration of intermediaries under sub-section (4) of section 24;

(n) the procedure for holding inquiry by an adjudicating officer under sub-section (1) of section 27;

(o) the supersession of the governing board or board of directors of the intermediary under sub-section (2) of section 28;

(p) the manner of administering and utilising the Subscribers Education and Protection Fund under sub-section (3) of section 38;

(q) delegation of powers and functions of the Authority to Committees under sub-section (2) of section 50;

(r) any other matter which is required to be or may be specified by regulations or in respect of which provision is to be or may be made by regulations.

Rules and regulations to be laid before Parliament.

48. Every rule and every regulation made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

49. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

50. (1) The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Ordinance (except the powers under section 47) as it may deem necessary.

Delegation of powers.

(2) The Authority may, by a general or special order in writing, also form committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

51. The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force.

Application of other laws not barred.

52. Anything done or any action taken by the Central Government under the Resolution of the Government of India in the Ministry of Finance number F. No. 5-7-2003- ECB&PR dated the 10th October, 2003 and notification number F.No. 5-7-2003-ECB&PR dated the 22nd December, 2003, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Savings.

Sd/-

A.P.J. ABDUL KALAM,

President.

Sd/

T. K. VISWANATHAN,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART-VI

CENTRAL SECTION

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 21st March, 2005

RPB/11/2005/ACT/1-05/E.-The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th January, 2005/Pausa 17, 1926 (Saka)

The following Act of Parliament received the assent of the President on the 6th January, 2005 and is hereby published for general information.-

THE SECURITIES LAWS (AMENDMENT) ACT, 2004

(Act No. 1 of 2005)

(6th January, 2005)

AN ACT

further to amend the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities Laws (Amendment) Act, 2004.

(2) It shall be deemed to have come into force on the 12th day of October, 2004.

Short title
and
commen-
cement

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

42 of 1956.

2. In section 2 of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as the principal Act),-

Short title
and
commence-
ment.

(i) clause (aa) shall be re-lettered as clause (ac) thereof and before the clause (ac) as so re-lettered, the following clauses shall be inserted, namely:-

21 of 1860.

“(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860, by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and exchange Board of India;”;

(ii) clause (ga) shall be re-lettered as clause (gb) thereof and before the clause (gb) as so re-lettered, the following clauses shall be inserted, namely:-

“(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchanges which may provide for--

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(ii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;”;

(iii) in clause (h), after sub-clause (ic), the following sub-clause shall be inserted, namely:-

“(id) units or any other such instrument issued to the investors under any mutual fund scheme;”;

(iv) for clause (j), the following clause shall be substituted, namely:-

(j) "stock exchange" means-

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under section 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities;";

3. After section 4 of the principal Act, the following sections shall be inserted, namely:-

Insertion
of new
sections
4A and
4B.

Corporatisa-
tion and
demutualisa-
tion of
stock
exchanges.

4A. On and from the appointment date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B:

Provided that the securities and exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation. - For the purpose of this section, "appointed date" means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint different appointed dates may be appointed for different recognised stock exchanges.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval:

Procedure
for
corporatisa-
tion and
demutuali-
sation.

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by-

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised stock exchange and on all persons having any contract, right, power, obligation or liability with against, over, to, or, in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956, or any order law for the time being in force, have full effect. 1 of 1956.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.

Amend-
ment of
section 5.

4. Section 5 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely :—

“(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section B.”

Insertion
of new
section
8A.
Clearing
corpora-
tion.

5. After section 8 of the principal Act, the following section shall be inserted, namely:—

“8A (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, for the purpose of—

1 of 1956.

(a) the periodical settlement of Contracts and differences thereunder;

(b) the delivery of, and payment for, securities;

(c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange."

6. After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

(a) in the interest of investors, or orderly development of securities market; or

(b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or

(c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market."

7. In section 13 of the principal Act,—

(a) for the words "between members of a recognised stock exchange", the words "between members of a recognised stock exchange or recognised stock exchanges" shall be substituted;

(b) for the words "State or area" wherever they occur, the words "State or States or area" shall be substituted;

(c) the following proviso shall be inserted, namely:—

"Provided that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

Insertion
of new
section
Power to
issue
directions.

Amend-
ment of
section 13.

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India.’

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.”

8. After section 21 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 21A.

“21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act:

Delisting of securities.

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals;

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.”

Substitution of new section for section 22F.

9. For section 22F of the principal Act, the following section shall be substituted, namely:-

Appeal to Supreme Court.

“22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Amendment of section 23.

10. In section 23 of the principal Act,—

(a) in sub-section (1) after clause (i), for the words “shall on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine or with both”, the words “shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to

ten years or with fine, which may extend to twenty-five crore rupees or with both" shall be substituted;

(b) in sub-section (2),—

(i) for the word and figures "section 21," the words, figures and letter "section 21 or section 21 A" shall be substituted;

(ii) for the words "shall, on conviction, be punishable with fine which may extend to one thousand rupees", the words "shall, without prejudice to any award to one thousand rupees", the words "shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both" shall be substituted.

Insertion of new sections 23A to 23-O.

11. after section 23 of the principal Act, the following sections shall be inserted, namely:—

Penalty for failure to furnish information, return etc.

"23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, is less for every such failure.

Penalty for failure by any person to enter into an agreement with clients.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to redress investors' grievances.

15 of 1992.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or money of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.

Penalty for failure to segregate securities or moneys of client or clients.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

Penalty for failure to comply with listing conditions or delisting conditions or grounds.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.

Penalty for excess dematerialisation or delivery of unlisted securities.

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the securities and Exchange Board of India, or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.

Penalty for failure to furnish periodical returns, etc.

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Penalty for contravention where no separate penalty has been provided.

23-I. (1) For the purpose of adjudging under section 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

Power to adjudicate.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken in to account by adjudicating officer.

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Appeal to Securities Appellate Tribunal.

23L. (1) Any person aggrieved, by the order or decision of the recognised stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of section 22B, 22C, and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the appellant and it shall be in such form and be accompanied by such fee as may be prescribed.

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of

any rules or regulations or bye-laws made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

Composi-
tion of
certain
offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

2 of 1974.

23-O (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation :

Power to
grant
immunity.

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, has not such immunity been granted.”.

12. In section 25 of the principal Act, the words, brackets and figure “sub-section (1) of” shall be omitted.

Amend-
ment of
section 25.

13. For section 26 of the principal Act, the following section shall be substituted, namely:-

Substitution of new section for section 26. Cognizance of offences by courts.

“26.(1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

14. After section 27A of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 27B.

“27B (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Right to receive income from mutual fund.

Explanation.—The period specified in this section shall be extended-

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to cause connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the

mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of a transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.”

Amend-
ment of
section 30.

15. In section 30 of the principal Act,—

(a) in sub-section (2), for clause (ha), the following clauses shall be substituted, namely :—

“(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;”,

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

Insertion
of new
section
31.

16. After section 30 of the principal Act, the following section shall be inserted, namely:—

Power of
Securities
and
Exchange
Board of

“31 (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992, the Securities and Exchange Board of India may, by notification in the Official Gazette,

India to
make
regula-
tions.

make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent. of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

CHAPTER III

AMENDMENT TO THE DEPOSITORS ACT, 1996

22 of 1996.

17. After section 19 of the depositories Act, 1996 (hereafter, in this Chapter referred to as the principal Act), the following section shall be inserted, namely:-

Insertion
of new
sections
19A, 19B,
19C, 19D,
19E, 19F,
19G, 19H,
19-I and
19-J.

“19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,---

Penalty for
failure to
furnish
informa-
tion,
return, etc.

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefore, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

15 Of 1992.	19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992, and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.	Penalty for failure to enter into an agreement.
15 of 1992.	19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992, after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.	Penalty for failure to redress investors' grievances.
Penalty for delay in dematerialisation or issue of certificate of securities.	19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992, fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of Securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.	15 Of 1992.
Penalty for failure to reconcile records.	19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992, fails to reconcile the records of dematerialised securities with all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a Penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.	15 Of 1992.
Penalty for failure to comply with directions issued by Board under section 19 of the Act.	19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a pentalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.	
Penalty for contraven- tion where no separate penalty has been provided..	19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereun- der for which no sparate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.	

Power to
adjudicate.

19H.(1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G, the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any those sections.

Factors to
be taken
into
account
by
adjudicat-
ing officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Crediting
sums reali-
sed by way
of penal-
ties to Con-
solidated
Fund of In-
dia.

19J. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.”

Substitu-
tion of new
section for
section 20.

18. For section 20 of the principal Act, the following section shall be substituted, namely:—

Offences.

“20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.”

19. For section 22 of the principal Act, the following section shall be substituted, namely:-

Substitution of new section for section 22.

"22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or by any person.

Cognizance of offences by court.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

2 of 1974.

22 A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Composition of certain offences.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is Satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Power to grant immunity.

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this subsection shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time be withdrawn by the Central Government, if it is Satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted."

20. In section 23A of the principal Act, in sub-section (1), after the words, brackets and figures "Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made

Amendment of section 23A

thereunder," and before the words "may prefer an appeal to a Securities Appellate Tribunal having a jurisdiction in the matter," the words "or by an order made by an adjudicating officer under this Act" shall be inserted.

Substitution of new section for section 23F.

Appeal to Supreme Court.

21. For section 23F of the principal act, the following section shall be substituted, namely:-

"23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

Amendment of section 24.

22. In section 24 of the principal Act, in sub-section (2), for clause (a), the following clauses shall be substituted, namely:-

"(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;"

CHAPTER IV

REPEAL AND SAVING

Repeal and saving.

23. (1) The Securities Laws (Amendment) Ordinance, 2004 is hereby repealed.

Ord. 4 of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

42 of 1956
22 of 1996.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/12/2005/ACT-2-05/E.—The following Act of Parliament is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT),

New Delhi, the 7th January, 2005/Pausa 17, 1926 (Saka)

The following Act of Parliament received the assent of the President on the 6th January, 2005 and is hereby published for general information :—

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT, 2004.

(ACT NO. 2 OF 2005)

(6th January, 2005)

AN ACT

to constitute a National Commission for Minority Educational Institutions and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as Follows :—

CHAPTER 1

PRELIMINARY

1.(1) This Act may be called the National Commission for Minority Educational Institutions Act, 2004.

Short title.
extent and
commence-
ment

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 11th day of November, 2004.

VI-Ex.-6-1

6-1

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "affiliation" together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such, college to the privileges of, a Scheduled University;

(b) "college" means a college or teaching institution (other than a University) established or maintained by a person or group of persons from amongst a minority community;

(c) "Commission" means the National Commission for Minority Educational Institutions constituted under section 3;

(d) "degree" means any such degree as may, with previous approval of the Central Government, be specified in this behalf by the University Grants Commission, by notification in the Official Gazette;

(e) "Member" means a member of the Commission and includes the Chairperson;

(f) "minority," for the purpose of this Act, means a community notified as such by the Central Government;

(g) "Minority Educational Institution" means a college or institution (other than a University) established or maintained by a person or group of persons from amongst the minorities;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "qualification" means a degree or any other qualification awarded by a University;

(j) "Scheduled University" means a University specified in the Schedule;

(k) "technical education" has the meaning assigned to it in clause (g) of 52 of 1987, section 2 of the All India Council for Technical Education Act, 1987;

(l) "University" means a university defined under clause (f) of section 2 of 3 of 1956, the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act, or an institution specifically empowered by an Act of Parliament to confer or grant degrees.

CHAPTER II

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

Constitution
of National
Commission
for Minority
Educational
Institutions.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the National Commission for Minority Educational Institutions to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of a Chairperson and two members to be nominated by the Central Government.

Qualifications
for
appointment
as
Chairperson
or other
Member.

4. (1) A person shall not be qualified for appointment as the Chairperson unless he,-

(a) is a member of a minority community; and

(b) has been a Judge of a High Court.

(2) A person shall not be qualified for appointment as a Member unless he,-

(a) is a member of a minority community; and

(b) is a person of eminence, ability and integrity.

Term of
office and
conditions
of service of
Chairperson
and
Members.

5. (1) Every Member shall hold office for a term of five years from the date on which he assumes office.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person-

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) in the opinion of the Central Government, has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest;

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

6. (1) The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act,

Officers and other employees of Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the Secretary, officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

7. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, officers and other employees referred to in section 6, shall be paid out of the grants referred to in sub-section (1) of section 14.

Salaries and allowances to be paid out of grants.

8. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of Commission.

9. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

Procedure to be regulated by Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

CHAPTER III

RIGHT OF A MINORITY EDUCATIONAL INSTITUTION

10. (1) Notwithstanding anything contained in any other law for the time being in force, a Minority Educational Institution may seek recognition as an affiliated college of a Schedule University of its choice.

Right of a Minority Educational Institution to seek affiliation to a Scheduled University

(2) The Scheduled University shall consult the Government of the State in which the minority educational institution seeking affiliation under sub-section (1) is situate and views of such Government shall be taken into consideration before granting affiliation.

CHAPTER IV

FUNCTIONS AND POWERS OF COMMISSION

Functions of Commission

11. Notwithstanding anything contained in any other law for the time being in force, the Commission shall—

(a) advise the Central Government or any State Government or any question relating to the education of minorities that may be referred to it;

(b) look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a Scheduled University and report its findings to the Central Government for its implementation; and

(c) to do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.

Powers of Commission.

12.(1) If any dispute arises between a minority educational institution and a Scheduled University relating to its affiliation to such University, the decision of the Commission thereon shall be final.

(2) The Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely;--

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) Subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

Financial and administrative powers of Chairperson.

13. The Chairperson shall exercise such financial and administrative powers as may be vested in him by the rules made under this section;

Provided that the Chairperson shall have authority to delegate such of the financial and administrative powers as he may think fit to any Member or Secretary or any other officer of the Commission subject to the condition that such Member or Secretary or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

14. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

15. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. Accounts and audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

16. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government. Annual report.

17. The Central Government shall cause the annual report, together with memorandum of action taken on the advice tendered by the Commission under section 11 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament. Annual report and audit report to be laid before Parliament.

CHAPTER VI

MISCELLANEOUS

18. (1) The Central Government if deems it fit may, by notification in the Official Gazette, amend the Schedule by including therein any other University or omitting therefrom any University already specified therein and on the publication of such notification, such University shall be deemed to be included in or, as the case may be, omitted from the Schedule. Power to amend Schedule.

(2) Every notification issued under sub-section (1), shall be laid before each House of Parliament.

45 of 1860.

19. The Chairperson, Members, Secretary, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Chairperson, Members, Secretary, employees, ect., of Commission to be public servants.

20. (1) In the discharge of its functions under this Act, the Commission shall be guided by such direction on questions of policy relating to national purposes, as may be given to it by the Central Government. Directions by Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final.

Protection
of action
taken in
good faith.

21. No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Members, Secretary or any officer or other employee of the Commission for anything which is in good faith done or intended to be done under this Act.

Act to have
overriding
effect.

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Returns or
information.

23. The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power to
make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) the salaries and allowances payable to, and the other terms and conditions of the service of, the Chairperson and Members under sub-section (5) of section 5 and of the Secretary, officers and other employees under sub-section (2) of section 6;

(b) the financial and administrative powers to be exercised by the Chairperson under section 13;

(c) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 15;

(d) the form in, and the time at, which the annual report shall be prepared under section 16;

(e) any other matter which is required to be, or may be, prescribed

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient, for removing the difficulty;

Provided that no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this sections shall, as soon as may be after it is made, be laid before each House of Parliament.

Ord. 6 of
2004.

Repeal and
saving.

26. (1) The National Commission for Minority Educational Institutions Ordinance, 2004 is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 2 (j)]

Sl.No.	Name of the University
1.	University of Delhi.
2.	North-Eastern Hill University.
3.	Pondicherry University.
4.	Assam University.
5.	Nagaland University.
6.	Mizoram University.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART-VI

CENTRAL SECTION

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 2005

No. RPB/14/2005/ACT/4-05/E.-The following Act of Parliament is republished for general information.

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th January, 2005/Pausa 22, 1926 (Saka)

The following Act of Parliament received the assent of the President on the 11th January, 2005 and is hereby published for general information.-

THE DELEGATED LEGISLATION PROVISIONS (AMENDMENT)

Act, 2004.

(Act No. 4 of 2005)

(11th January, 2005)

AN ACT

to amend certain Acts to implement the recommendations of the Committees on Subordinate Legislation regarding publication and laying of rules and other delegated legislation.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:-

1. This Act may be called the Delegated Legislation Provisions (Amendment) Act, 2004.

Short title.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the third column thereof.

Amendment of certain enactments.

THE SCHEDULE (See section 2)		
Sr. No.	Short title	Amendments
1.	The Punjab Laws Act, 1872 (4 of 1872)	Section 50A shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :- “(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
2.	The Central Provinces Laws Act, 1875 (20 of 1875)	Section 10 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :- “(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
3.	The Oudh Laws Act, 1876 (18 of 1876)	Section 40 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:- “(2) Every rule made by the State Government under section 39 shall be laid, as soon as may be after it is made, before the State Legislature.”.
4.	The Indian Treasure-trove Act, 1878 (6 of 1878)	Section 19 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:- “(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
5.	The Northern India Ferries Act, 1878 (17 of 1878)	Section 12 shall be re-numbered as sub-section (1) thereof, and (a) in sub-section (1) as so re-numbered, for the words “make rules”, the words “by notification in the Official Gazette, make rules” shall be substituted; (b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:- “(2) Every rule made under this Act by the Commissioner of a division or the officer appointed by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.”.
6.	The Hanckney-carriage Act, 1879 (14 of 1879)	Section 6 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:- “(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.

7.	The Obstruction in Fairways Act, 1881 (16 of 1881)	<p>Section 8 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :-</p> <p>“(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or, annulment shall be without prejudice to the validity of anything previously done under that rule.”.</p>
8.	The Land Improvement Loans Act, 1883 (19 of 1883)	<p>Section 10 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-</p> <p>“(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
9.	The Agriculturists' Loans Act, 1884 (12 of 1884)	<p>In section 4, after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>“(3) Every rule made by the State Government or a Board of Revenue or a Financial Commissioner under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
10.	<p>The Indian Tramways Act, 1886 (11 of 1886)</p> <p>Rules to be laid before Parliament and State Legislature.</p>	<p>After section 24, the following section shall be inserted, namely:-</p> <p>“24A. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>(2) Every rule made by a State Government or a local authority or a promoter or a lessee under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”</p>

11.	The Government Management of Private Estates Act, 1892 (10 of 1892)	<p>Section 7 shall be re-numbered as sub-section (1) thereof, and-</p> <p>(a) in sub-section (1) as so re-numbered, for the words "may make any rules", the words "may, by notification in the Official Gazette, make rules" shall be substituted;</p> <p>(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-</p> <p>"(2) Every rule made and every order issued by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature."</p>
12.	The Reformatory Schools. Act, 1897 (8 of 1897)	<p>In section 26,-</p> <p>(a) in sub-section (1) and (2), for the words "make rules", the words "make rules, by notification in the Official Gazette," shall be substituted;</p> <p>(b) after sub-section (2), the following sub-section shall be inserted, Namely:-</p> <p>"(3) Every rule made by the State Government or a Board of Management of a Reformatory School under this Act shall be laid, as soon as may be after it is made, before the State Legislature."</p>
13.	The Lepers Act, 1898 (3 of 1898)	<p>Section 16 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-</p> <p>"(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature."</p>
14.	The Indian Post Office Act, 1898 (6 of 1898)	<p>In section 74, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>"(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid; both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
15.	The Live-stock Importation Act, 1898 (9 of 1898)	<p>In section 4,-</p> <p>(a) in sub-section (1), for the words "State Government may make rules", the words "State Government may, by notification in the Official Gazette, make rules" shall be substituted;</p>

		<p>(b) after sub-section (1), the following sub-section shall be inserted, namely:-</p> <p>“(1A) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
16.	The Indian Stamp Act, 1899 (2 of 1899)	<p>In section 76, after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>“(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
17.	The Glanders and Farcy Act, 1899 (13 of 1899)	<p>In section 14, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(3A) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
18.	The Ancient Monuments Preservation Act, 1904 (7 of 1904)	<p>In section 23,-</p> <p>(a) in sub-section (1), for the words “may make rules”, the words “may, by notification in the Official Gazette, make rules” shall be substituted;</p> <p>(b) after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>“(3) Every rule made by the Central Government under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.</p>
19.	The Dourine Act, 1910 (5 of 1910)	<p>In section 14, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(3A) Every rule made by State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
20.	The Banaras Hindu University Act, 1915 (16 of 1915)	<p>In section 19, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(4) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.</p> <p>(5) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be</p>

		comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.
21.	The Inland Vessels Act, 1917 (1 of 1917)	<p>In section 74, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
22.	The Aligarh Muslim University Act, 1920 (40 of 1920)	<p>In section 31, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(4) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.</p> <p>(5) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.</p>
23.	The Delhi University Act, 1922 (8 of 1922)	<p>In section 32, after sub-section (3), the following sub-section shall be inserted, namely:-</p> <p>“(4) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.</p> <p>(5) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive</p>

		<p>sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.</p>
24.	The Mussalman Wakf Act, 1923 (42 of 1923)	<p>In section 11, after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>“(3) Every rule made by State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
25.	The Indian Forest Act, 1927 (16 of 1927)	<p>In section 51,—</p> <p>(a) in sub-section (1), for the words “may make rules”, the words “may, by notification in the Official Gazette, make rules” shall be substituted;</p> <p>(b) after sub-section (1), the following sub-section shall be inserted, namely:—</p> <p>“(1A) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
26.	The Murshidabad Estate Administration Act, 1933 (23 of 1933)	<p>In section 28,—</p> <p>(a) in sub-section (1), for the words “make rules”, the words “and by notification in the Official Gazette, make rules” shall be substituted;</p> <p>(b) after sub-section (2), the following sub-section shall be added at the end, namely:—</p> <p>“(3) Every rule made by the Board of Revenue under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
27.	The Sugar-cane Act, 1934 (15 of 1934)	<p>Section 8 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be added at the end, namely:—</p> <p>“(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
28.	The Manoeuvres, Field Firing and Artillery Practice Act, 1938 (5 of 1938)	<p>Section 13 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—</p> <p>“(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>

29.	The War Injuries (Compensation Insurance) Act, 1943 (23 of 1943)	<p>In section 20, after sub-section (2), the following sub-section shall be inserted, namely:-</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
30.	The Minimum Wages Act, 1948 (11 of 1948)	<p>Section 30A shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-</p> <p>“(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”</p>
31.	The Reserve Bank (Transfer to Public Ownership) Act, 1948 (62 of 1948)	<p>In section 6, after sub-section (2), the following sub-section shall be added at the end, namely:-</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
32.	The Drugs (Control) Act, 1950 (26 of 1950)	<p>In section 17,-</p> <p>(a) in sub-section (1), for the words “make rules”, the words “and by notification in the Official Gazette, make rules” shall be substituted;</p> <p>(b) after sub-section (2), the following sub-section shall be inserted namely:-</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session</p>

		immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.
33.	The Road Transport Corporations Act, 1950 (64 Of 1950) Every rule and regulation to be laid before State Legislature.	(a) In section 45, in sub-section (1), for the words “the State Government”, the words “the State Government and by notification in the Official Gazette” shall be Substituted; (b). After section 45, the following section shall be inserted, namely:— “45A, Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
34.	The Jallianwala Bagh National Memorial Act, 1951 (25 of 1951)	In section 9, after sub-section (2), the following sub-section shall be inserted, namely:— “(2A) Every rule made by Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both house agree in making any modification in the rule or both House agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.
35.	The Visva-Bharati Act, 1951 (29 Of 1951)	In section 31, after sub-section (3), the following sub-section shall be inserted, namely:— “(4) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette. (5) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so

		however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”
36.	The Evacuee Interest (separation) Act, 1951 (64 of 1951)	<p>In section 23, after sub-section (2), the following sub-section shall be added at the end, namely:—</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
37.	The Plantations Labour Act, 1951 (69 of 1951)	<p>In section 43, after sub-section (3), the following sub-section shall be added at the end, namely:—</p> <p>“(4) Every rule made by the State government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”</p>
38.	The Salaries and Allowances of Officers of Parliament Act, 1953 (20 of 1953)	<p>In section 11, for sub-section (2), the following sub-sections shall be substituted, namely:—</p> <p>“(2) Every rule made by the Central Government under this Act shall be published in the Official Gazette.</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
39.	The Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954)	<p>Section 12 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be added at the end, namely:—</p> <p>“(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be</p>

		comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”
40.	The Transfer of Evacuee Deposits Act, 1954 (15 of 1954)	<p>In section 13, after sub-section (2), the following sub-sections shall be added at the end, namely:—</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
41.	The Delivery of Books and Newspapers (public Libraries) Act, 1954 (27 of 1954)	<p>Section 8 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be added at the end, namely:—</p> <p>“(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
42.	The Prize Competitions Act, 1955 (42 of 1955)	<p>In section 20, after sub-section (2), the following sub-section shall be added at the end, namely:—</p> <p>“(3) Every rule made by the State government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”</p>
43.	The State Bank of Hyderabad Act, 1956 (79 of 1956)	<p>In section 41, for sub-section (3), the following sub-sections shall be substituted, namely:—</p> <p>“(3) Every rule made by the Central Government</p>

		<p>under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
44.	The Faridabad Development Corporation Act, 1956 (90 of 1956)	<p>In section 36, for sub-section (3), the following sub-sections shall be substituted, namely:-</p> <p>"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
45.	The Indian Medical Council Act, 1956 (102 of 1956)	<p>In Section 32, for sub-section (2) the following sub-section shall be substituted, namely:-</p> <p>"(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
46.	The Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957)	<p>In section 27, for sub-section (3), the following sub-sections shall be substituted, namely:-</p> <p>"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive</p>

		<p>sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.</p>
47.	The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958)	<p>In section 38, for sub-section (4), the following sub-section shall be substituted, namely:-</p> <p>“(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.</p>
48.	The Personal Injuries (Compensation Insurance) Act, 1963 (37 of 1963)	<p>In section 24, for the marginal heading, the following marginal heading shall be substituted, namely:-</p> <p>“(3) Every scheme and rule to be laid before Parliament.”.</p>
49.	The Jawaharlal Nehru University Act, 1966 (53 of 1966)	<p>Section 18 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-</p> <p>“(2) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.</p> <p>(3) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or</p>

		Regulation.”.
50.	The Insecticides Act, 1968 (46 of 1968)	<p>In section 37, after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>“(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
51.	The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970)	<p>In section 35, after sub-section (3), the following sub-section shall be added at the end, namely:—</p> <p>“(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
52.	The Medical Termination of Pregnancy Act, 1971 (34 of 1971)	<p>In section 7, after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>“(2A) Every Regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.</p>
53.	The North-Eastern Hill University Act, 1973 (24 of 1973)	<p>Section 27 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—</p> <p>(3) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.</p>
54.	The university of Hyderabad Act, 1974 (39 of 1974)	<p>Section 27 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—</p> <p>“(2) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.</p> <p>(3) Every statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any</p>

		modification in the statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.
<p style="text-align: center;">Sd/,</p> <p style="text-align: center;">T. K. VISWANATHAN</p> <p style="text-align: center;">Secretary to the Government of India,</p> <p style="text-align: center;">By order and in the name of the Governor of Gujarat,</p> <p style="text-align: center;">S. S. PARMAR,</p> <p style="text-align: center;">Secretary to Government.</p> <p style="text-align: center;">-----</p> <p style="text-align: center;">GOVERNMENT CENTRAL PRESS, GANDHINAGAR.</p>		



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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART-VI

Acts of Parliament and Ordinance Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/5/2005/Act-24-04/E :- The Following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE,
(Legislative Department),
New Delhi, the 21st December, 2004/Agrahayana, 30, 1926 (saka)

The following Act of Parliament received the assent of the President on the 20th December, 2004 and is hereby published for general information :-

THE BANKING REGULATION (AMENDMENT) AND MISCELLANEOUS PROVISIONS ACT, 2004.

AN ACT

ACT NO. 24 OF 2004

(20TH DECEMBER, 2004)

further to amend the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

Be it enacted by Parliament in the fifty-Fifth Year of the Republic of India as follows :-

CHAPTER I

Preliminary

1. (1) This Act may be called the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004. Short title, and Commencement.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be deemed to have come into force on the 24th day of September, 2004.

CHAPTER II

Amendments to the Banking Regulation Act, 1949.

Amendment
of section
56 of Act 10
of 1949.

2. In Part V of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the principal Act), in the provisions of the principal Act as applied to, or in the relation to, Co-operative societies, by section-56,-

(1) in section 5 of the principal Act, as amended by sub-clause (i) of clause (c) of the said section 56,-

(A) after clause (ccii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely :-

“(cciiia) “Co-operative Society” means society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-state co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;”;

(B) after clause (cciii), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:-

“(cciiia) “multi-State co-operative bank” means a multi-State co-operative society which is a primary co-operative bank;

“(cciiib) “multi-State co-operative society” means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;”;

(C) in clause (ccvii), the words “co-operative society” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(11) after section 22 of the principal Act, as amended by clause (o) of the said section 56, the following section shall be inserted, namely:-

“22A. Notwithstanding anything contained in any law or, judgement delivered or degree or order of any court made,-

(a) no licence, granted to multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be invalid or be deemed ever to have been invalid merely by the reason of such judgement, decree or order;

(b) every licence, granted to a multi-state co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be valid and be deemed always to have been validly granted in accordance with law;

Validation
of licences
granted by
Reserve
Bank to
multi-State
co-
operative
societies.

(c) a multi-State co-operative society whose application for grant of licence for carrying on banking business was pending with the Reserve Bank on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provision Act, 2004 shall be eligible to carry on Banking business until it is granted a licence in pursuance of section 22 or is, by a notice in writing notified by the Reserve Bank that the licence cannot be granted to it;”;

(III) for clause (zaa) of the said section 56, the following section shall be substituted, namely:-

‘(zaa) after section 36AA of the principal Act, the following section shall be inserted, namely:-

“36AAA(1) Where the Reserve bank is satisfied that in the public interest or for preventing the affairs of a multi-State Co-operative Bank being conducted in a manner detrimental to the interest of the depositors or of the multi-state co-operative bank or for securing the proper management of the multi-state co-operative bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such multi-State co-operative Bank for a period not exceeding five years as may be specified in the order, which may be extended from time to time, so, however, that total period shall not exceed five years.

Super-
session of
Board of
Directors of
a multi-
State Co-
operative
Bank.

(2) The Reserve Bank may, on supersession of the Board of directors of the multi-State co-operative bank under sub-section (1) appoint an Administrator for such period as it may be determine.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of directors of multi-State Co-operative bank,-

(a) the chairman managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Multi-State Co-operative Societies Act, 2002 or this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such a multi-State co-operative bank or by a resolution passed in general meeting of such co-opreative bank shall, until the Board of directors of such co-operative bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2) :

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such multi-State co-operative bank.

(5) (a) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his duties.

(b) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(6) The Salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned multi-State co-operative bank.

(7) On and before expiration of period of supersession of the Board of directors as specified in the order issued under sub-section(1), the Administrator of the multi-State co-operative bank shall call the general meeting of the society to elect new directors.

(8) Notwithstanding anything contained in any other law or in any contract, or bye-laws of a multi-State co-operative bank, no person shall be entitled to claim any compensation for the loss or termination of his office.

(9) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of the multi-State co-operative society has been constituted.

Order of winding up of multi-State co-operative bank to be final in certain cases.

36AAB. Where a multi-State co-operative bank, being an eligible co-operative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as an insured bank, and subsequently-- 47 of 1961

(a) in pursuance of a scheme prepared with the previous approval of the Reserve Bank under section 18 of the multi-State Co-operative Societies Act, 2002, an order sanctioning a scheme of compromise and arrangement or reorganisation or reconstruction has been made; or 39 of 2002.

(b) on requisition by the Reserve Bank, an order for winding up of the multi-State co-operative bank has been made under section 87 of the multi-State Co-operative societies Act, 2002; or 39 of 2002.

(c) an order for the supersession of the Board and the appointment of an Administrator therefor has been made under section 36AAA;

Such order for sanctioning the scheme of compromise and arrangement or reorganisation or reconstruction under clause (a) or the winding up of the multi-State co-operative bank under clause (b) or an order for the supersession of the Board and the appointment of an Administrator under clause (c) shall not be liable to be called in question in any manner.

Reimbursement to Deposit insurance Corporation by liquidator or transferee bank.

36AAC. Where a multi-State co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is wound up and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) or sub-section (2) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act"; 47 of 1961

(zab) in section 36AD, sub-section (3) shall be omitted;";

(IV) in clause (zb) of the said section 56, for the word, figures and letter "PART IIA", the words, figures and letters "PART IIA" except sections 36AAA, 36AAB and 36AAC" shall be substituted.

CHAPTER III

Amendment to the Deposit Insurance and Credit Guarantee Corporation Act, 1961

3. In the Deposit Insurance and Credit Guarantee Corporation Act, 1961 in section 2,--

Amendment
of section 2
of Act 47 of
1961.

(a) in clause (q), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of march, 1966;

(b) in clause (r), for the words "primary co-operative bank," the words "co-operative society", "primary co-operative bank" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1966;

CHAPTER IV**Repeal and Saving**

4.(1) The banking Regulation (Amendment) and Miscellaneous Provisions Ordinance 2004 is hereby replaced. **Repeal and saving.**

Ord. 3 of
2004.

10 of 1949.

47 of 1961.

(2) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

Sd/-

T. K. VISWANATHAN,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/5/2005/ACT-25-04/E.—The following act of Parliament is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT),

New Delhi, the 22nd December, 2004/ Pausa 1, 1926 (Saka)

The following Act of Parliament received the assent of the President on the 21st December, 2004 and is hereby published for general information :—

THE CUSTOMS AND CENTRAL EXCISE LAWS (REPEAL) ACT, 2004.

(ACT NO. 25 OF 2004)

(21st December, 2004)

AN ACT

to repeal certain Customs and Central Excise Enactments.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as Follows :—

1. This Act may be called the Customs and central Excise Laws (Repeal) Act, 2004.

2. The enactments specified in the Schedule are hereby repealed.

Repeal of
certain
enactments.
Savings.

3.(1) The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences

of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy of proceedings in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

10 of 1978.

(2) Sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the Acts specified in the Schedule.

THE SCHEDULE

(See section 2)

Year	Number	Short title
(1)	(2)	(3)
1958	27	The Mineral Oils (Additional Duties of Excise and Customs) Act, 1958.
1959	58	The Sugar (Special Excise Duty) Act, 1959.
1986	45	The Central Duties of Excise (Retrospective Exemption) Act, 1986.
1986	62	The Customs and Excise Revenues Appellate Tribunal Act, 1986.
1988	29	The Customs and Central Excises Laws (Amendment) Act, 1988.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



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PART-VI

CENTRAL SECTION

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/6/2005/ACT/26--04/E.-The following Act of Parliament is republished for general information.

GOVERNMENT OF INDIA

MINISTER OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd December, 2004/Pausa 1, (Saka)

The following Act of Parliament received the assent of the President on the 21st December, 2004 and is hereby published for general information.-

THE PREVENTION OF TERRORISM (REPEAL) ACT, 2004.

(Act No. 26 of 2004).

(21st December, 2004).

AN ACT

To repeal the Prevention of Terrorism Act, 2002.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Prevention of Terrorism (Repeal) Act, 2004.

Short title
and
com-
mence-
ment.

(2) It shall be deemed to have come into force on the 21st day of September, 2004.

2. (1) The Prevention of Terrorism Act, 2002 (hereinafter referred to as the principal Act) is hereby repealed.

Repeal of
Act 15 of
2002 and
saving.

(2) The repeal of the principal Act shall not affect-

(a) the previous operation of, or anything duly done or suffered under the principal Act, or

(b) any right, privilege or obligation or liability acquired, accrued or incurred under the principal Act, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and, any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the principal Act had not been repealed.

Provided that notwithstanding anything contained in this sub-section or in any other law for the time being in force, no court shall take cognizance of an offence under the principal Act after the expiry of the period of one year from the commencement of this Act.

(3) Notwithstanding the repeal of section 60 of the principal Act, the Review Committee constituted by the Central Government under sub-section (1) of that section, whether or not an application under sub-section (4) of that section has been made, shall review all cases registered under the principal Act as to whether there is a *prima facie* case for proceeding against the accused thereunder and such review shall be completed within a period of one year from the commencement of this Act and where the Review Committee is of the opinion that there is no *prima facie* case for proceeding against the accused, then,-

(a) in cases in which cognizance has been taken by the Court, the cases shall be deemed to have been withdrawn; and

(b) in cases in which investigations are pending, the investigations shall be closed forthwith,

with effect from the date of issuance of the direction by such Review Committee in this regard.

(4) The Review Committee constituted by the Central Government under sub-section (1) of section 60 of the principal Act shall, while reviewing cases, have powers of a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

5 of 1908

(a) discovery and production of any document;

(b) requisitioning any public record or copy thereof from any court or office.

(5) The Central Government may constitute more Review Committees, as it may consider necessary, for completing the review within the period specified in sub-section (3).

Repeal and
Saving.

3. (1) The Prevention of Terrorism (Repeal) Ordinance, 2004 is hereby repealed.

Ord. 1 of
2004.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

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PART VI

Acts of Parliament and Ordinances Promulgated
by the President.

Legislative and Parliamentary Affairs Department,
Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/9/2005/Act-29-04/E :- The following Act of Parliament is
republished for general information:-

GOVERNMENT OF INDIA

Ministry of Law and Justice

(Legislative Department,)

New Delhi, the 30th December, 2004/Pausa 9, 1926 (Saka)

The following Act of Parliament received the assent of the
President on the 29th December, 2004 and is hereby published for general
information:-

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2004

AN ACT

(Act No 29 of 2004)

(29th December, 2004)

further to amend the Unlawful Activities (Prevention) Act, 1967.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic
of India as follows:-

1. (1) This Act may be called the Unlawful Activities (Prevention)
Amendment Act, 2004.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 21st day of
September, 2004.

37 of 1967.

2. In the Unlawful Activities (Prevention) Act, 1967 (hereinafter
referred to as the principal Act), in the long title, after the word "associations",
the words, "and for dealing with terrorist activities," shall be inserted.

Amendment
of long title.

3. In the principal Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the word "Code" shall be substituted.

Amendment
of Chapter I.

4. In Chapter I of the principal Act, for sections 1, 2 and 2A, the following section shall be substituted, namely:—

Short title,
extent and
application.

'1. (1) This Act may be called the Unlawful Activities (Prevention) Act, 1967.

37 of 1967.

(2) It extends to the whole of India.

(3) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(4) Any person, who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(5) The provisions of this Act apply also to—

(a) citizens of India outside India;

(b) persons in the service of the Government, wherever they may be; and

(c) persons of ships and aircrafts, registered in India, wherever they may be.

Definitions..

2. (1) In this Act, unless the context otherwise requires,—

(a) "association" means any combination or body of individuals;

(b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;

(c) "Code" means the Code of Criminal Procedure, 1973;

2 of 1974.

(d) "court" means a criminal court having jurisdiction, under the Code, to try offences under this Act;

(e) "Designated Authority" means such officer of the Central Government not below the rank of Joint Secretary to that Government, or such officer of the State Government not below the rank of Secretary to that Government, as the case may be, as may be specified by the Central Government or the State Government, by notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "proceeds of terrorism" means all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found, and includes any property which is being used, or is intended to be used, for the purpose of a terrorist organisation;

(h) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or

intangible and deeds and instruments evidencing title to, or interest in, such property or assets, and includes cash and bank account;

(i) "secession of a part of the territory of India from the Union", includes the assertion of any claim to determine whether such part will remain a part of the territory of India;

(j) "State Government", in relation to a Union territory, means the Administrator thereof;

(k) "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and "terrorist" shall be construed accordingly;

(l) "terrorist gang" means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;

(m) "terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;

(n) "Tribunal" means the Tribunal constituted under section 5;

(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India;

(p) "unlawful association" means any association,—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;

(q) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the

relevant provision of the corresponding law, if any, in force in that area.’

Amendment
of section 5.

5. In section 5 of the principal Act, in sub-section (7); for the word and figures “Chapter XXXV”, the word and figures “Chapter XXVI” shall be substituted.

6. For section 10 of principal Act, the following section shall be substituted, namely:-

Substitution
of new
section for
section 10.

“10. Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,—

Penalty for
being
member of
an unlawful
association,
etc.

(a) a person, who—

(i) is and continues to be a member of such association; or

(ii) takes part in meeting of such association; or

(iii) contributes to, or receives or solicits any contribution for the purpose of, such association; or

(iv) in any way assists the operations of such association,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and

(b) a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits an act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,—

(i) and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;

(ii) in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.”

Substitution
of new
Chapters and
Schedule for
Chapter IV.

7. For Chapter IV of the principal Act, the following Chapters and the Schedule shall be substituted, namely:-

‘CHAPTER IV’

PUNISHMENT FOR TERRORIST ACTIVITIES

Terrorist act.

15. Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any

property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

Punishment
for terrorist
act.

16. (1) Whoever commits a terrorist act shall,--

(a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for raising
fund for
terrorist act.

17. Whoever raises fund for the purpose of committing a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for
conspiracy,
etc.

18. Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for
harbouring,
etc.

19. Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

Punishment
for being
member of
terrorist
gang or
organisation.

20. Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for holding
proceeds of
terrorism.

21. Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for threaten-
ing witness.

22. Whoever threatens any person who is a witness or any other person in whom such witness may be interested, with violence, or wrongfully restrains or confines the witness, or any other person in whom the witness may be interested, or does any other unlawful act with intent to cause any of the said acts, shall be punishable with imprisonment which may extend to three years, and shall also be liable to fine.

4 of 1884.
6 of 1908.
20 of 1952.
54 of 1959.

23. (1) If any person with intent to aid any terrorist contravenes any provision of, or any rule made under the Explosives Act, 1884 or the Explosive Substances Act, 1908 or the Inflammable Substances Act, 1952 or the arms Act, 1959, or is in unauthorised possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall,

Enhanced
penalties.

notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Any person who, with intent to aid any terrorist, attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section (1), shall be deemed to have contravened that provision under sub-section (1) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to "imprisonment for life" therein shall be construed as a reference to "imprisonment for ten years."

CHAPTER V

FORFEITURE OF PROCEEDS OF TERRORISM

Forfeiture of
proceeds of
terrorism.

24. (1) No person shall hold or be in possession of any proceeds of terrorism.

(2) Proceeds of terrorism, whether held by a terrorist or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI, shall be liable to be forfeited to the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

Powers of
investigating
officer and
Designated
Authority
and appeal
against order
of Designated
Authority.

25. (1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of Police of State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.

(2) The investigating officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property.

(3) The Designated Authority before whom the seized or attached property is produced shall either conform or revoke the order of seizure or attachment so issued within a period of sixty days from the date of such production :

Provided that an opportunity of making a representation by the person whose property is being seized or attached shall be given.

(4) In the case of immovable property attached by the investigating officer, it shall be deemed to have been produced before the Designated Authority, when the investigating officer notifies his report and places it at the disposal of the Designated Authority.

(5) The investigating officer may seize and detain any cash to which this Chapter applies if he has reasonable grounds for suspecting that-

(a) it is intended to be used for the purposes of terrorism; or

(b) it forms the whole or part of the resources of a terrorist organisation :

Provided that the cash seized under this sub-section by the investigating officer shall be released within a period of forty-eight hours beginning with the time when it is seized unless the matter involving the cash is before the Designated Authority and such Authority passes an order allowing its retention beyond forty-eight hours.

Explanation.—For the purposes of this sub-section, “cash” means—

(a) coins or notes in any currency;

(b) postal orders;

(c) traveller’s cheques;

(d) banker’s drafts; and

(e) such other monetary instruments as the Central Government or, as the case may be, the State Government may specify by an order made in writing.

(6) Any person aggrieved by an order made by the Designated Authority may prefer an appeal to the court within a period of thirty days from the date of receipt of the order, and the court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property.

26. Where any property is seized or attached on the ground that it constitutes proceeds of terrorism and the court confirms the order in this regard under sub-section (6) of section 25, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached, is prosecuted in a court for an offence under Chapter IV or Chapter VI.

Court to order forfeiture of proceeds of terrorism.

27. (1) No order forfeiting any proceeds of terrorism shall be made under section 26 unless the person holding or in possession of such proceeds is given a notice in writing informing him of the grounds on which it is proposed to forfeit the proceeds of terrorism and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter.

Issue of show cause notice before forfeiture of proceeds of terrorism.

(2) No order of forfeiture shall be made under sub-section (1), if such person establishes that he is a *bona fide* transferee of such proceeds for value without knowing that they represent proceeds of terrorism.

(3) It shall be competent for the court to make an order in respect of property seized or attached,—

(a) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code shall, as nearly as may be practicable, apply to the net proceeds of such sale;

(b) nominating any officer of the Central Government or the State Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the court.

28. (1) Any person aggrieved by an order of forfeiture under section 26 may, within one month from the date of the receipt of such order, appeal to the High Court within whose jurisdiction, the court, which passed the order appealed against, is situated.

Appeal.

(2) Where an order under section 26 is modified or annulled by the High Court or where in a prosecution instituted for any offence under Chapter IV or Chapter VI, the person against whom an order of forfeiture has been made under section 26 is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefore as if the property had been sold to the Central Government with reasonable interest calculated from the day of seizure of the property and such price shall be determined in the manner prescribed.

Order of forfeiture not to interfere with other punishments.

29. The order of forfeiture made under this Chapter by the court, shall not prevent the infliction of any other punishment to which the person affected thereby is liable under Chapter IV or Chapter VI.

Claims by third party.

30. (1) Where any claim is preferred or any objection is made to the seizure or attachment of any property under section 25 on the ground that such property is not liable to seizure or attachment, the Designated Authority before whom such property is produced, shall proceed to investigate the claim or objection;

Provided that no such investigation shall be made where the Designated Authority considers that the claim or objection is designed to cause unnecessary delay.

(2) Where an appeal has been preferred under sub-section (6) of section 25 and any claimant or objector establishes that the property specified in the notice issued under section 27 is not liable to be forfeited under this Chapter, the said notice shall be withdrawn or modified accordingly.

Power of Designated Authority.

31. The Designated Authority, acting under the provisions of this Chapter, shall have all the powers of a civil court required for making a full and fair inquiry into the matter before it.

Certain transfers to be null and void.

32. Where, after the issue of an order under section 25 or issue of a notice under section 27, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purpose of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited, the transfer of such property shall be deemed to be null and void.

Forfeiture of property of certain persons.

33. (1) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall during the period of such trial, be attached, if not already attached under this Chapter.

(2) Where a person has been convicted of any offence punishable under Chapter IV or Chapter VI, the court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Central Government or the State Government, as the case may be, free from all encumbrances.

Company to transfer shares to Government.

34. Where any share in a company stand forfeited to the Central Government or the State Government, as the case may be, under this Chapter, the company shall, on receipt of the order of the court, notwithstanding

anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Central Government or the State Government, as the case may be, as the transferee of such share.

CHAPTER VI

TERRORIST ORGANISATIONS

35. (1) The Central Government may, by order, in Official Gazette,—

Amendment
of Schedule
etc.

(a) add an organisation to the Schedule;

(b) add also an organisation to the Schedule, which is identified as a terrorist organisation in a resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, to combat international terrorism;

(c) remove an organisation from the Schedule;

(d) amend the Schedule in some other way.

(2) The Central Government shall exercise its power under clause (a) of sub-section (1) in respect of an organisation only if it believes that it is involved in terrorism.

(3) For the purposes of sub-section (2), an organisation shall be deemed to be involved in terrorism if it—

(a) commits or participates in acts of terrorism, or

(b) prepares for terrorism, or

(c) promotes or encourages terrorism, or

(d) is otherwise involved in terrorism.

36. (1) An application may be made to the Central Government for the exercise of its power under clause (c) of sub-section (1) of section 35 to remove an organisation from the Schedule.

Denotification
of a terrorist
organisation.

(2) An application under sub-section (1) may be made by—

(a) the organisation, or

(b) any person affected by inclusion of the organisation in the Schedule as a terrorist organisation.

(3) The Central Government may prescribe the procedure for admission and disposal of an application made under this section.

(4) Where an application under sub-section (1) has been rejected the applicant may apply for a review to the Review Committee constituted by the Central Government under sub-section (1) of section 37 within one month from the date of receipt of the order of such refusal by the applicant.

(5) The Review Committee may allow an application for review against rejection to remove an organisation from the Schedule, if it considers that the decision to reject was flawed when considered in the light of the principles applicable on an application for judicial review.

(6) Where the Review Committee allows review under sub-section (5) by or in respect of an organisation, it may make an order to such effect.

(7) Where an order is made under sub-section (6), the Central Government shall, as soon as the certified copy of the order is received by it, make an order removing the organisation from the Schedule.

Review
Committees.

37. (1) The Central Government shall constitute one or more Review Committees for the purposes of section 36.

(2) Every such Committee shall consist of a Chairperson and such other members not exceeding three and possessing such qualifications as may be prescribed.

(3) A Chairperson of the Committee shall be a person who is, or has been, a Judge of a High Court, who shall be appointed by the Central Government and in the case of appointment of a sitting Judge, the concurrence of the Chief Justice of the concerned High Court shall be obtained.

Offence
relating to
membership
of a terrorist
organisation.

38. (1) A person, who associates himself, or professes to be associated, with a terrorist organisation with intention to further its activities, commits an offence relating to membership of a terrorist organisation:

Provided that this sub-section shall not apply where the person charged is able to prove—

(a) that the organisation was not declared as a terrorist organisation at the time when he became a member or began to profess to be a member; and

(b) that he has not taken part in the activities of the organisation at any time during its inclusion in the Schedule as a terrorist organisation.

(2) A person, who commits the offence relating to membership of a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

Offence
relating to
support
given to a
terrorist
organisation.

39. (1) A person commits the offence relating to support given to a terrorist organisation,—

(a) who, with intention to further the activity of a terrorist organisation,—

(i) invites support for the terrorist organisation, and

(ii) the support is not or is not restricted to provide money or other property within the meaning of section 40; or

(b) who, with intention to further the activity of a terrorist organisation, arranges, manages or assists in arranging or managing a meeting which he knows is—

(i) to support the terrorist organisation, or

(ii) to further the activity of the terrorist organisation, or

(iii) to be addressed by a person who associates or professes to be associated with the terrorist organisation; or

(c) who, with intention to further the activity of a terrorist organisation, addresses a meeting for the purpose of encouraging support for the terrorist organisation or to further its activity.

(2) A person, who commits the offence relating to support given to a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

Offence of
raising fund
for a
terrorist
organisation.

40. (1) A person commits the offence of raising fund for a terrorist organisation, who, with intention to further the activity of a terrorist organisation,—

(a) invites another person to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(b) receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(c) provides money or other property and knows, or has reasonable cause to suspect, that it would or might be used for the purposes of terrorism.

Explanation.—For the purposes of this sub-section, a reference to provide money or other property includes of its being given, lent or otherwise made available, whether or not for consideration.

(2) A person, who commits the offence of raising fund for a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding fourteen years, or with fine, or with both.

CHAPTER VII

MISCELLANEOUS

41. An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Continuance
of associa-
tion.

42. The Central Government may, by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under section 7, or section 8, or both, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing, direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

Power to
delegate.

25 of 1946.

43. Notwithstanding anything contained in the Code, no police officer,—

(a) in the case of the Delhi Special Police Establishment, constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946, below the rank of a Deputy Superintendent of Police or a police officer of equivalent rank;

(b) in the metropolitan areas of Mumbai, Kolkata, Chennai and Ahmedabad and any other metropolitan area notified as such under sub-section (1) of section 8 of the Code, below the rank of an Assistant Commissioner of Police;

(c) in any case not relatable to clause (a) or clause (b), below the rank of a Deputy Superintendent of Police or a police officer or an equivalent rank, shall investigate any offence punishable under Chapter IV or VI.

Officers
competent to
investigate
offences
under
Chapters IV
and VI.

44. (1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held in camera if the court so desires.

(2) A court, if on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (3), the measures which a court may take under that sub-section may include-

(a) the holding of the proceedings at a place to be decided by the court;

(b) the avoiding of the mention of the name and address of the witness in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witness are not disclosed;

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

45. No court shall take cognizance of any offence-

(i) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;

(ii) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and where such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

46. Notwithstanding anything contained in the Indian Evidence Act, 1872 or any other law for the time being in force, the evidence collected through the interception of wire, electronic or oral communication under the provisions of the Indian Telegraph Act, 1885 or the Information Technology Act, 2000 or any other law for the time being in force, shall be admissible as evidence against the accused in the court during the trial of a case;

Provided that the contents of any wire, electronic or oral communication intercepted or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court unless each accused has been furnished with a copy of the order of the competent authority under the aforesaid law, under which the interception was directed, not less than ten days before trial, hearing or proceeding:

Provided further that the period of ten days may be waived by the judge trying the matter, if he comes to the conclusion that it was not possible to furnish the accused with such order ten days before the trial, hearing or

Cognizance
of offences.

Admissibility
of evidence
collected
through the
interception
of communi-
cations.

1 of 1872.

13 of 1885.
21 of 2000.

proceeding and that the accused shall not be prejudiced by the delay in receiving such order.

47. (1) Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate, or any officer authorised in this behalf by the Central Government or the District Magistrate, shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction.

(2) Notwithstanding anything contained in sub-section (1), no civil court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters referred to in section 36.

48. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Effect of Act and rules, etc, inconsistent with other enactments.

49. No suit, prosecution or other legal proceeding shall lie against.-

(a) the Central Government or a State Government or any officer or authority of the Central Government or State Government or District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate or any other authority on whom powers have been conferred under this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder; and

Protection of action taken in good faith.

(b) any serving or retired member of the armed forces or para-military forces in respect of any action taken or purported to be taken by him in good faith, in the course of any operation directed towards combating terrorism.

50. Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the navy, army or air force or other armed forces of the Union.

Saving.

51. Notwithstanding anything contained in any other law for the time being in force, the passport and the arms licence of a person, who is charge-sheeted for having committed any offence under this Act, shall be deemed to have been impounded for such period as the court may deem fit.

Impounding of passport and arms licence of person chargesheeted under the Act.

52. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this act;

(c) determination of the price of the forfeited property under sub-section (2) of section 28;

(d) the procedure for admission and disposal of an application under sub-section (3) of section 36;

(e) the qualifications of the members of the Review Committee under sub-section (2) of section 37; and

(f) any other matter which is required to be, or may be, prescribed.

Orders and
rules to be
laid before
both Houses
of
Parliament.

53. Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

THE SCHEDULE

[See sections 2(1)(m) and 35]

TERRORIST ORGANISATIONS

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLEHADIS.
6. JAISH-E-MOHAMMED/TAHRIK-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/
HARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-UL-MUJAHIDEEN PIR
PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LIBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND
(NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK
(PREPAK).
16. KANGLEIPAK COMMUNIST PARTY (KCP)
17. KANGLEI YAOL KANBALUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)-
PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT
ORGANISATIONS.

25. MAOIST COMMUNIST CENTRE (MCC), ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
26. AL BADR.
27. JAMIAT-UL-MUJAHIDDEN.
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM.).
30. TAMIL NADU LIBERATION ARMY (TNLA).
31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT).
32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES).

Ord. 2 of
2004.

8. (1) The Unlawful Activities (prevention) Amendment Ordinance, 2004 is hereby repealed.

Repeal and
Saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated
by the President.

Legislative and Parliamentary Affairs Department,
Sachivalaya, Gandhinagar. 21st March, 2005.

No RPB/10/2005/Act-30-04/E :- The following Act of Parliament is
republished for general information:-

GOVERNMENT OF INDIA

Ministry of Law and Justice

(Legislative Department,)

New Delhi, the 30th December, 2004/Pausa 9, 1926 (Saka)

The following Act of Parliament received the assent of the
President on 29th December, 2004 and is hereby published for general
information:-

THE ENFORCEMENT OF SECURITY INTEREST AND RECOVERY

OF DEBTS LAWS (AMENDMENT) ACT, 2004

AN ACT

(Act No 30 of 2004)

29th December, 2004

*to amend the Securitisation and Reconstruction of Financial Assets
and Enforcement of Security Interest Act, 2002 and further to amend
the Recovery of Debts Due to Banks and Financial Institutions Act,
1993 and the Companies Act, 1956.*

Be it enacted by Parliament in the Fifty-fifth Year of the Republic
of India as follows:-

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called the Enforcement of Security Interest
and Recovery of Debts Laws (Amendment) Act, 2004.

Short title
and
commence-
ment.

(2) Save as otherwise provided in this Act, the provisions of this Act
shall be deemed to have come into force on the 11th day of November, 2004.

CHAPTER-II

AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL
ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT, 2002Amendment
of section 2.

2. In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter in this Chapter referred to as the principal Act), in sub-section (1),—

54 of 2002.

(i) after clause (h), the following clause shall be inserted, namely:—

“(ha) “debt” shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;”;

54 of 2002.

(ii) in clause (j), the words “in accordance with the directions or guidelines issued by the Reserve Bank” shall be omitted;

(iii) in clause (a), for the words “doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank”, the following shall be substituted, namely:—

“doubtful or loss asset,—

(a) in case such bank or financial institution is administered or regulated by any authority or body established, constituted by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body;

(b) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank;”;

(iv) in clause (u), for the words “trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund”, the words, brackets and figures “trustee or securitisation company or reconstruction company which has been granted a certificate of registration under sub-section (4) of section 3 or any asset management company making investment on behalf of mutual fund” shall be substituted;

(v) in clause (zd), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) securitisation company or reconstruction company, whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be; or”.

Amendment
of section 3.

3. In section 3 of the principal Act, in sub-section (3) after clause (g), the following clause shall be inserted at the end namely:—

“(h) that securitisation company or reconstruction company has complied with one or more conditions specified in the guidelines issued by the Reserve Bank for the said purpose.”.

4. In section 4 of the principal Act, in sub-section (2),—

Amendment
of section 4.

(a) the words “rejection of application for registration or” shall be omitted;

(b) for the words “such order of rejection or cancellation”, the words “such order of cancellation” shall be substituted.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
5A. Transfer
of pending
applications
to any one of
Debts
Recovery
Tribunals in
certain cases.

“5A. (1) If any financial asset, of a borrower acquired by a securitisation company or reconstruction company, comprise of secured debts of more than one bank or financial institution for recovery of which such banks or financial institutions has filed applications before two or more Debts Recovery Tribunals, the securitisation company or reconstruction company may file an application to the Appellate Tribunal having jurisdiction over any of such Tribunals in which such applications are pending for transfer of all pending applications to any one of the Debts Recovery Tribunals as it deems fit.

(2) On receipt of such application for transfer of all pending applications under sub-section (1), the Appellate Tribunal may, after giving the parties to the application an opportunity of being heard, pass an order for transfer of the pending applications to any one of the Debts Recovery Tribunals.

51 of 1993.

(3) Notwithstanding anything contained in the Recovery of Debts to Banks and Financial Institutions Act, 1993, any order passed by the Appellate Tribunal under sub-section (2) shall be binding on all the Debts Recovery Tribunals referred to in sub-section (1) as if such order had been passed by the Appellate Tribunal having jurisdiction on each such Debts Recovery Tribunal.

(4) Any recovery certificate issued by the Debts Recovery Tribunal to which all the pending applications are transferred under sub-section (2), shall be executed in accordance with the provisions contained in sub-section (23) of section 19 and other provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 shall, accordingly, apply to such execution.”

51 of 1993.

6. In section 7 of the principal Act, —

Amendment
of section 3.

(i) after sub-section (2), following sub-section shall be inserted, namely:—

“(24) (a) The scheme for the purpose of offering security receipts under sub-section (1) or raising funds under sub-section (2), may be in the nature of a trust to be managed by the securitisation company or reconstruction company, and the securitisation company or reconstruction company shall hold the assets so acquired or the funds so raised for acquiring the assets, in trust for the benefit of the qualified institutional buyers holding the security receipts or from whom the funds are raised.

2 of 1882.

(b) The provisions of the Indian Trusts Act, 1882 shall, except in so far as they are inconsistent with the provisions of this Act, apply with respect to the trust referred to in clause (a) above.”;

(ii) in sub-section (3), for the words "security receipts issued by company", the words "security receipts issued under a scheme by such company" shall be substituted.

Insertion of
new section
12A Power of
Reserve
Bank to call
for state-
ments and
information.

7. After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. The Reserve Bank may at any time direct a securitisation company or reconstruction company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of such securitisation company or reconstruction company (including any business or affairs with which such company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act."

8. In section 13 of the principal Act,—

Amendment
of section 13.

(i) after sub-section (3), the following sub-section shall be inserted, Amendment of Section-13 namely :-

"(3A) If, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower;

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A,";

(ii) in sub-section (4), for clause (b), the following clause shall be substituted, namely :-

"(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt :

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;"

Amendment
of section 15.

9. In section 15 of the principal Act, in sub-section (1), for the words "When the management of business of a borrower is taken over by a secured creditor", the words, brackets, letters and figures "When the management of business of a borrower is taken over by a securitisation company or reconstruction company under clause (a) of section 9 or, as the case may be, by a secured creditor under clause (b) of sub-section 13" shall be substituted.

10. In section 17 of the principal Act,—

Amendment
of section 17.

(a) in sub-section (1),—

(i) for the words “may prefer an appeal”, the words “may make an application along with such fee, as may be prescribed,” shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

“Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.”;

(iii) after the proviso as so inserted, the following Explanation shall be inserted, namely:—

“Explanation.— For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section.”;

(a) for sub-section (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

(3) If the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management of the business to the borrower or restoration of possession of the secured assets to the borrower, it may by order, declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured creditors as invalid and restore the possession of the secured assets to the borrower or restore the management of the business to the borrower, as the case may be, and pass such order as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.

(4) If the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

(5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application :

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any party to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the rules made thereunder."

51 of 1993.

11. After section 17 of the principal Act, the following section shall be inserted, namely: —

"17A. In the case of a borrower residing in the State of Jammu and Kashmir, the application under section 17 shall be made to the Court of District Judge in that State having jurisdiction over the borrower which shall pass an order on such application.

12. In section 18 of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "under section 17, may prefer an appeal", the words and figures "under section 17, may prefer an appeal along with such fee, as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

"Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower;"

(iii) after the proviso as so inserted, the following provisos shall be inserted, namely:—

"Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Insertion of
new section
17A.

Marking of
application
to Court of
District
Judge in
certain cases.

Amendment
of section 8.

“Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.”

13. After section 18 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 18A and 18B..

Validation of fees levied.

“18A. Any fee levied and collected for preferring, before the commencement of the Enforcement of Security Interest and Recovery of Debts (Amendment) Act, 2004, an appeal to the Debts Recovery Tribunal or the Appellate Tribunal under this Act, shall be deemed always to have been levied and collected in accordance with law as if the amendments made to sections 17 and 18 of this Act by sections 10 and 12 of the said Act were in force at all material times.

“18B. Any borrower residing in the State of Jammu and Kashmir and aggrieved by any order made by the Court of District Judge under section 17A may prefer an appeal, to the High Court having jurisdiction over such Court, within thirty days from the date of receipt of the Court of District Judge:

Appeal to High Court in certain cases.

Provided that no appeal shall be preferred unless the borrower has deposited, with the Kashmir High Court, fifty per cent. of the amount of the amount of the debt due from him as claimed by the secured creditor or determined by the Court of District Judge, whichever is less:

Provided further that the High Court may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of the referred to in the first proviso.”

14. For section 19 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 19.

“19. If the Debts Recovery Tribunal or the Court of District Judge, on an application made under section 17 or section 17A or the Appellate Tribunal or the High Court on an appeal preferred under section 18 or section 18A, holds that the possession of secured assets by the secured creditor is not in accordance with the provisions of this Act and rules made thereunder and directs the secured creditors to return such secured assets to the concerned borrowers, such borrower shall be entitled to the payment of such compensation and costs as may be determined by such Tribunal or Court of District Judge or Appellate Tribunal or the High Court referred to in section 18B.”

Right of borrower to receive compensation and costs in certain cases.

15. In section 25 of the principal Act, —

Amendment of section 25.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) On receipt of intimation under sub-section (1), the Central Registrar shall order that a memorandum of satisfaction shall be entered in the Central Register.”;

(b) in sub-section (2), for the words “The Central Registrar shall, on receipt of such intimation”, the words, brackets and figures “If the concerned borrower gives an intimation to the Central Registrar for not recording the payment or satisfaction referred to in sub-section (1), the

Amendment
of section 28.

Central Registrar shall on receipt of such intimation" shall be substituted.

16. In section 28 of the principal Act, for the words and figures "under Section 12", the words, figures and letter "under section 12 or section 12A" shall be substituted:

Amendment
of section 31.

17. In section 31 of the principal Act, in clause (g), for the words "any properties not liable to attachment", the words and brackets "any properties not liable to attachment (excluding the properties specifically charged with the debt recoverable under this Act)" shall be substituted.

18. In section 38 of the principal Act, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

"(ba) the fee for making an application to the Debts Recovery Tribunal under sub-section (1) of section 17;

(bb) the form of making an application to the Appellate Tribunal under sub-section (6) of section 17;

(bc) the fee for preferring an appeal to the Appellate Tribunal under sub-section (1) of section 18;

CHAPTER III

AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

Amendment
of section 2.

19. In section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereafter in this Chapter referred to as the principal Act), in clause (h), after sub-clause (i), the following sub-clause shall be inserted, namely:—

51 of 1993.

(ia) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;".

54 of 2002.

Amendment
of section 19.

20. In section 19 of the principal Act, after sub-clause (1), the following provisos shall be inserted, namely:—

"Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, wheher made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, if no such action had been taken earlier under that Act :

54 of 2002.

Provided further that any application made under the first proviso for seeking permission from the Debts Recocery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application :

Provided also that in case the Debts Recocery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-

section, it shall pass such orders after recording the reasons therefor.”.

CHAPTER IV

AMENDMENTS TO THE COMPANIES ACT, 1956

1 of 1956.

21. In section 4A of the Companies Act, 1956 (hereafter in this Chapter referred to as the principal Act), in sub-section (1), clause (vii), shall be omitted.

Amendment
of section 4A.

22. In section 424A of the principal Act, in sub-section (1), after the second proviso, the following provisos shall be inserted, namely:—

Amendment
of section
424A.

“Provided also that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, such reference shall abate if the secured creditors, representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower, have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of security Interest Act, 2002:

54 of 2002.

Provided also that no reference shall be made under this section if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002.”.

54 of 2002.

CHAPTER V

REPEAL AND SAVING

5 of 2004.

23. (1) The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 is hereby repealed.

Repeal and
saving.

54 of 2002.

51 of 1993.

1 of 1956.

(2) Notwithstanding such repeal, anything done or any action taken under the Securitisation and Reconstruction of financial Assets and Enforcement of Security Interest Act, 2002, and the Recovery of Debts due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to the Government.



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The Gujarat Government Gazette

EXTRAORDINARY
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 2005.

No. RPB/3/2005/Ord-1-05/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 2005 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 25th January, 2005/Magha 5, 1926 (Saka)

**THE CENTRAL EXCISE LAWS (AMENDMENT AND VALIDATION)
ORDINANCE, 2005
No. 1 OF 2005**

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

An Ordinance further to amend the Central Excise Act, 1944, rules made thereunder, certain notifications relating to exemption from duties of excise during a past period and to validate the actions taken under such notifications during such period.

WEHEAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the president is pleased to promulgate the following Ordinance :-

Short title and Commencement 1. (1) This Ordinance may be called the Central Excise Laws (Amendment and Validation) Ordinance, 2005.

(2) It shall come into force at once.

Amendment of section 37 of Act 1 of 1944. 2. For the period commencing on and from the 1st day of March, 1983 and ending with the 28th day of February, 1987, sub-section (1) of section 37 of the Central Excise Act, 1944 shall stand substituted and shall be deemed to have effect as if for the said sub-section, the following sub-section had been so substituted, namely:-

“(1) The Central Government may make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.”

Amendment of rule 8 of the Central Excise Rules, 1944.

3. For the period commencing on and from the 1st day of March, 1983 and ending with the 28th day of February, 1987, after sub-rule (1) of rule 8 of the Central Excise Rules, 1944, as it stood before its omission by the Central Excise (Third Amendment) Rules, 1988, the following sub-rule (1A) shall stand inserted and shall be deemed to have effect as if the said sub-rule had been so inserted, namely:-

“(1A) The power to issue notification as conferred by Sub-rule (1) Shall include the power to give retrospective effect to such notification.”

Amendment of notifications issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944.

4. (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue),-

(i) No. G. S. R. 120 (E), dated the 1st March, 1983 as superseded by notification No. G.S.R. 607 (E), dated 4th August, 1983 issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944 as amended by the Central Excise (Third Amendment) Rules, 1988 vide notification No G.S.R. 768 (E), dated the 1st July, 1988 and superseded by the Central Excise Rules, 2000, read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

(ii) No. G. S. R. 298 (E), dated the 25th March, 1985 issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944 as amended by the Central Excise (Third Amendment) Rules, 1988 vide notification No. G. S. R. 768 (E), dated the 1st July, 1988 and superseded by the Central Excise Rules, 2000, read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-clause (4) of clause 47 of the Finance

Bill, 1985 which clause had force of law by virtue of the declaration made in the said Bill under the Provisional Collection of Taxes Act, 1931;

58 of 1957

16 of 1931

(iii) No. G.S.R. 431 (E), dated 24th May, 1985, issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944 as amended by the Central Excise (Third Amendment) Rules, 1988 vide notification No. G.S.R. 768 (E), dated the 1st July, 1988 and superseded by the Central Excises Rules, 2000, read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (4) of section 47 of the Finance Act, 1985; and

58 of 1957 32
of 1985.

(iv) No. G.S.R. 701 (E), dated the 2nd September, 1985 as amended by notification No. G.S.R. 747 (E), dated 20th September, 1985 issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944 as amended by the Central Excise (Third amendment) Rules, 1988 vide notification No. G.S.R. 768 (E), dated the 1st July, 1988 and superseded by the Central Excise Rules, 2000, read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957,

58 of 1957.

by the Central Government shall stand amended and shall be deemed to have been so amended retrospectively, in the manner as specified in column (3) of the Schedule on and from the corresponding dates as specified in column (4) of the said Schedule till the date of those notifications were superseded or rescinded, as the case may be.

1 of 1944.

(2) Notwithstanding anything contained in section 11A of the Central Excise Act, 1944, recovery shall be made of all amounts of duty or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would have not been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the date of commencement of this Ordinance, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.-For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section (1) had not been amended retrospectively by that sub-section.

Validation of notifications issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944.

5. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority-

- (a) all things done or actions taken by the Central Government under the notifications referred to in clauses (i) to (iv) of sub-section (1) of section 4 as they stood before the commencement of this Ordinance shall be deemed to be and to have always been done or taken in accordance with the provisions of the said notifications;
- (b) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority for the refund of any duty levied under the notifications referred to in clause (a);
- (c) no court shall enforce any decree or order directing the refund of any such duties levied under the notifications referred to in clause (a);
- (d) no claim or challenge shall be made in, or entertained by, any court, tribunal or other authority on the ground only that the Central Government did not have, at the material times, the power to amend retrospectively the notifications issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944.

Application of section 4.

6. For the removal of doubts, it is hereby declared that the amendment made to sub-section (1) of section 37 of the Central Excise Act, 1944 by section 2 and the amendment made to rule 8 of the Central Excise Rules, 1944 by section 3 shall be in addition to, and not in derogation of the provisions of section 4.

1 of 1944

THE SCHEDULE

(See section 4)

S. No.	Notification No. and date	Amendment	Date of effect of amendment
1	2	3	4
1	G.S.R. 120 (E), dated the 1 st March, 1983 (36/83- Central Excise dated 1 st March, 1983)	In the said notification, in the Explanation, for clause (3), the following clause shall be substituted, namely :- '(3) "sale price", in relation to the declaration on a package of cigarettes, means the maximum price (exclusive of local taxes only) at which such package may be sold in retail: Provided that- (a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be	31 st day of March, 1983 to 3 rd day of August, 1983 (both days inclusive)

		the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.'	
2.	G.S.R. 607 (E), dated the 4 th August, 1983 [211/1983- Central Excise dated 4th August, 1983]	In the said notification, in the Explanation, for clause (3), the following clause shall be substituted, namely :-	4 th day of August, 1983 to 24 th day of March, 1985 (both days inclusive)
		Provided that-	
		(a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.'	
3.	G.S.R. 298 (E), dated the 25 th March, 1985 [100/1985- Central Excise dated 25 th March, 1985]	In the said notification, in the Explanation, for clause (3), the following clause shall be substituted, namely :- '(3) "sale price", in relation to the declaration on a package of cigarettes, maximum price (exclusive of local taxes only) at which such package may be sold in retail:	25 th day of March, 1985 to 23 rd day of May, 1985 (both days inclusive)
		Provided that-	
		(a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.'	
4.	G.S.R. 431 (E), dated the 24 th May, 1985 [134/1985- Central Excise dated the 24 th May, 1985]	In the said notification, in the Explanation, for clause (3), the following clause shall be substituted, namely :- '(3) "sale price", in relation to the declaration on a package of cigarettes, means the maximum price (exclusive of local taxes only) at which such package may be sold in retail:	24 th day of May, 1985 to 1 st day of September, 1985 (both days inclusive)
		Provided that-	
		(a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be	

		the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.	
5.	G.S.R. 701 (E), dated the 2 nd September, 1985 [201/1985-Central Excise dated 2 nd September, 1985]	In the said notification, in the Explanation, for clause (3), the following clause shall be substituted, namely :- '(3) "sale price", in relation to the declaration on a package of cigarettes, means the maximum price (exclusive of local taxes only) at which such package may be sold in retail.	2 nd day of September, 1985 to 19 th day of September, 1985 (both days inclusive)
		Provided that-	
		(a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.	
6.	G.S.R. 747 (E), dated the 20 th September, 1985 [210/1985-Central Excise dated 20 th September, 1985]	In the said notification, for clause (4) as substituted by item (ii), the following clause shall be substituted, namely :- '(4) "sale price", in relation to the declaration on a package of cigarettes, means the maximum price (exclusive of local taxes only) at which such package may be sold in retail.	20 th day of September, 1985 to 28 th day of February, 1987, (both days inclusive)
		Provided that-	
		(a) where the sale price is more than the sale price declared on the package of cigarettes, the maximum of such sale price shall be deemed to be the sale price; (b) where different sale prices are declared on different packages for the sale of such package of cigarettes in packed form in different areas, each such sale price shall be the sale price for the purposes of valuation of the cigarettes intended to be sold in the area to which such sale price relates.	

Sd/-

A.P.J. ABDULKALAM,
President.

Sd/-

Z. S. NEGI,
Additional Secretary to the Govt. of India

By order and in the name of the Government of Gujarat,

S. S. PARMAR,
Secretary to Government.



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PART VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th July, 2005.

No. RPB/19/2005/ACT-22-05/E.—The following Act of Parliament is republished for general information :--

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT),

New Delhi, the 21st June, 2005/ Jyaistha 24, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th June, 2005 is hereby published for general information :-

THE RIGHT TO INFORMATION ACT , 2005.

(ACT NO.22 OF 2005

(15th June, 2005)

AN ACT

to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And Whereas revelation of Information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And Whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as Follows :-

CHAPTER 1 PRELIMINARY

1.(1) This Act may be called the Right to Information Act, 2005.

Short title,
extent and
commence-
ment

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly--

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

(c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) "Chief Information Commissioner and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "competent authority" means--

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "public authority" means any authority or body or institution of self-government established or constituted--

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government, and includes any--
 - (i) body owned, controlled or substantially financed;
 - (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

(i) "record" includes--

- (a) any document manuscript and file;
 - (b) any microfilm, microfiche and facsimile copy of a document;
 - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not) and
 - (d) any other material produced by a computer or any other device;
- (f) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

(k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;

(l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;

(m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(n) "third party" means a person other than the citizen making a request for information and includes a public authority.

-CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Subject to the provisions of this Act, all citizens shall have the right to information.

Right to
information.

4. (1) Every public authority shall--

- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

Obligations
of public
authorities.

(b) publish within one hundred and twenty days from the enactment of this Act,--

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) a directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) the names, designations and other particulars of the Public Information Officers;
- (xvii) such other information as may be prescribed;

and thereafter update these publications every year.

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suomotu* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated

widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.—For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

Designation
of Public
Information
Officers.

(5) (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case maybe, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers in necessary for the proper discharge of his or her duties.

(5) Any officer whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

Request for
obtaining
information.

6.(1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be.

specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,-

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7.(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9;

Disposal of request.

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information officer or State Public Information Officer, as the case may be shall send an intimation to the person making the request, giving-

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section:

(b) information concerning his or her right respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any

electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-section (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding any thing contained in sub section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Information Officer, as the case may be, shall communicate to the person making the request,-

(i) the reasons for such rejections;

(ii) the period within which an appeal against such rejection may be preferred; and

(iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8.(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign or lead to incitement of an offence;

(b) information, which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State, Legislature;

(d) information, including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information, available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information, received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information, which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Exemption
from
disclosure
of
information.

Provided further that matters which come under the exemptions specified in this section not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information;

Provided that the information which cannot be denied to the Parliament or a state Legislature shall not be denied to any person.

1 of 1923.

(2) Notwithstanding anything in the Official Secrets, Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

9. Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

Grounds for rejection to access in certain cases.

10.(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

Severability.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing--

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

(d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

11.(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer,

Third party information.

as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or state Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information :

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or state Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party, shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

THE CENTRAL INFORMATION COMMISSION

Constitution
of Central
Information
Commission.

12.(1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Central Information Commission shall consist of:-

(a) the Chief Information Commissioner; and

(b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of-

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.- For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised

or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying or hold any other office of on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Term of
office and
conditions
of service.

13.(1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five-years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner :

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12 :

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of--

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner

shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient Performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

Removal of
Chief
Information
Commissioner
or
Information
Commissioner.

14. (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,--

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit there of or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

THE STATE INFORMATION COMMISSION

15. (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the..... (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act. Constitution of State Information Commission.

(2) The State Information Commission shall consist of--

(a) the State Chief Information Commissioner, and

(b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of--

(i) the Chief Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Legislative Assembly; and

(iii) a Cabinet Minister to be nominated by the Chief Minister.

Explanation.-- For the purpose of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the state as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16. (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment: Term of office and conditions of service.

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner :

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of--

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government :

Provided ~~that if the~~ State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or ~~would~~ pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be ~~reduced~~ by the amount of that pension including any portion of pension which was ~~commuted~~ and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity :

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits :

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

Removal or
State Chief
Information
Commissioner
or State
Information
Commissioner.

17.(1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference

has been made to the Supreme Court under sub-section (1), until the Governor has passed order on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the state Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,--

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

18.(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,--

Powers and
functions of
information
Commissions.

(a) Who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

Appeal

19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer, or state public Information office as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission :

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision the Central Information Commission or State Information Commission, as the case may be, has the power to--

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including--

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or state Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause

(b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

Penalties

20. (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer, or the state public information officer as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees;

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him :

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer, or the State Public Information Officer, as the case may be, has, without any reasonable cause and

persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI MISCELLANEOUS

Protection
of action
taken in
good faith.

21. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Act to have
overriding
effect.

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

19 of 1923.

Bar of
Jurisdiction
of Courts.

23. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Act not to
apply to
certain
organisations.

24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government :

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification, in the Official gazette, specify :

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section :

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government. Monitoring and reporting.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,--

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
- (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

Appropriate Government to Prepare Programmes. 26.(1) The appropriate Government may, to the extent of availability of financial and other resources,--

- (a) develop and organise educational programmes to advance the understanding of the public, in particular or disadvantaged communities as to how to exercise the rights contemplated under this Act;
- (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such

programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include-

(a) the objects of this Act;

(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;

(c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State public Information Officer, as the case may be;

(d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;

(e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;

(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;

(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;

(h) the notices regarding fees to be paid in relation to requests for access to an information; and

(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

Power to make rules by appropriate Government. 27.(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(b) the fee payable under sub-section (1) of section 6;

(c) the fee payable under sub-section (1) and (5) of section 7;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;

(e) the procedure to be adopted by the Central Information Commission or State information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and

(f) any other matter which is required to be, or may be, prescribed.

28.(1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provision of this Act.

Power to
make rules
by
Competent
authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; and

(f) any other matter which is required to be, or may be, prescribed.

Laying of
rules.

29.(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making and modification in the rule of both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30.(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal or the difficulty:

Power to
remove
Difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

5 of 2003.

31. The Freedom of Information Act, 2002 is hereby repealed.

Repeal.

THE FIRST SCHEDULE

[See sections 13 (3) and 16(3)]

FORM OF OATH OR AFFIRMATION TO BE MADE BY THE CHIEF INFORMATION
COMMISSIONER/THE INFORMATION COMMISSIONER/THE STATE CHIEF INFORMATION
COMMISSIONER/THE STATE INFORMATION COMMISSIONER

"I,.....having been appointed Chief Information
Commissioner/Information Commissioner/State Chief Information Commissioner/
State Information Commissioner swear in the name of God that I will bear true
faith and allegiance to the Constitution of India

solemnly affirm

as by law established, that I will uphold the sovereignty and integrity of India, that
I will duly and faithfully and to the best of my ability, knowledge and judgment
perform the duties of my office without fear or favour, affection or ill-will and that
I will uphold the Constitution and the laws."

THE SECOND SCHEDULE

(SEE SECTION 24)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL
GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

Sd./-

T. K. VISWANATHAN,

Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] TUESDAY, AUGUST 2, 2005/SRAVANA 11, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th July, 2005.

No. RPB/15/2005/Ord-2 of 05/E.—The following Ordinance Promulgated by the President and published in the Gazette of India, Extraordinary, Part-II, Section I, dated the 28th June 2005 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th june, 2005 /Asadha 7, 1927 (Saka)

THE CITIZENSHIP (AMENDMENT) ORDINANCE, 2005.

No. 2 OF 2005.

Promulgated by the President in the Fifty-sixth Year of the Republic of India

An Ordinance further to amend the Citizenship Act, 1955.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) this Ordinance may be called the Citizenship (Amendment) Ordinance, 2005.

Short title
and
commence-
ment.

(2) It shall come into force at once.

57 of 1955.

2. In section 2 of the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in sub-section (1),-

Amendment
of section 2.

(i) for clause (ee), the following clause shall be substituted, namely :-

‘(ee) “overseas citizen of India” means a person registered as an overseas citizen of India by the Central Government under section 7A;’;

(ii) clause (gg) shall be omitted.

Amendment
of section 5.

3. In section 5 of the principal Act, in sub-section (1), in clause (g), for the words “two years”, the words “one year” shall be substituted.

Substitution
of new
section for
section 7A.

4. For section 7A of the principal Act, the following section shall be substituted, namely:-

Registration
of overseas
citizens of
India.

“7A. The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register as an overseas citizen of India-

(a) any person of full age and capacity,-

(i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or

(ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grand-child of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a):

Provided that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India.”.

5. The Fourth Schedule to the principal Act shall be omitted.

Omission
of Fourth
schedule.

Sd/-

A..P. J. ABDUL KALAM,
President.

Sd/-

T.K. VISWANATHAN,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Extra No. 16



सत्यमेव जयते

REGISTERED No. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

**Acts of Parliament and Ordinances Promulgated
by the President.**

**Government of Gujarat,
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar, 8th August, 2005.**

No RPB/21/2005/Act-18-05/E :-The following Act of Parliament is
republished for general information:-

**GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department,)**

New Delhi, the 13th May, 2005/Vaisakha, 23, 1927 (Saka)

The following Act of Parliament received the assent of the President
on the 13th May, 2005 is hereby published for general information:-

THE FINANCE ACT, 2005

AN ACT

(Act No 18 of 2005)

(13th MAY, 2005)

to give effect to the financial proposals of the Central Government for the financial year 2005-2006.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2005.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, sections 2 to 64 shall be deemed to have come into force on the 1st day of April, 2005.

CHAPTER-II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2005, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income -tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

Income-tax.

43 of 1961.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule.

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such income-tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of ten per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent. of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent. of such tax.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent. of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent. of such tax.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (14) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E, 115JB and 115WA of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the total income exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent. of such "advance tax";

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent. of such "advance tax".

(10) In cases to which, Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh thirty-five thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees" the words "one lakh eighty-five thousand rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on income-tax", so as to fulfil the commitment of the Government to provide and finance universalised quality basic education, calculated at the rate of two per cent. of such income-tax and surcharge.

(12) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment

year commencing on the 1st day of April, 2005, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person, computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 2 of the Income-tax Act, with effect from the 1st day of April, 2006,--

Amendment
of section 2.

(a) in clause (7), in sub-clause (a), for the words "assessment of his income", the words "assessment of his income or assessment of fringe benefits" shall be substituted;

(b) after clause (23A), the following clause shall be inserted, namely:--

'(23B) "fringe benefits" means any fringe benefits referred to in section 115WB;'

(c) in clause (42A), in the proviso, after the words, brackets, figures and letter "clause (23D) of section 10", the words "or a zero coupon bond" shall be inserted;

(d) in clause (43), after the words "the aforesaid date", the words, figures and letters "and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under section 115WA" shall be inserted;

(e) in clause (47), after sub-clause (iv), the following sub-clause shall be inserted, namely:--

"(iva) the maturity or redemption of a zero coupon bond; or";

(f) after clause (47) and the *Explanation* relating thereto, the following shall be inserted, namely:--

'(48) "zero coupon bond" means a bond--

(a) issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after the 1st day of June, 2005;

(b) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company; and

(c) which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, the expressions "infrastructure capital company" and "infrastructure capital fund" shall have the same meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10.'

4. In section 10 of the Income-tax Act, with effect from the 1st day of April, 2006,--

Amendment
of section 10.

(a) in clause (4), in sub-clause (ii), the second proviso shall be omitted;

(b) in clause (6BB), for the words, figures and letters "entered into after the 31st day of March, 2005", the words, figures and letters "entered into after the 30th day of September, 2005" shall be substituted;

(c) in clause (10D), in sub-clause (c), in the second proviso, for the words, brackets, figures and letter "Explanation to sub-section (2A) of section 88", the words, brackets, figures and letters "Explanation to sub-section (3) of section 80C or the Explanation to sub-section (2A) of section 88, as the case may be" shall be substituted;

(d) in clause (15), in sub-clause (iv), in item (fa), the words, figures and letters "before the 1st day of April, 2005" shall be omitted;

(e) in clause (15A), in the proviso, for the words, figures and letters "the 1st day of April, 2005", the words, figures and letters "the 1st day of October, 2005" shall be substituted.

Amendment
of section
10A.

5. In section 10A of the Income-tax Act, in sub-section (1A), after clause (ii), the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

"Provided that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (i) of section 139."

Amendment
of section 16.

6. In section 16 of the Income-tax Act, clause (i) shall be omitted with effect from the 1st day of April, 2006.

Amendment
of section 17.

7. In section 17 of the Income-tax Act, in clause (2), for sub-clause (vi), the following sub-clause shall be substituted, with effect from the 1st day of April, 2006, namely:—

"(vi) the value of any other fringe benefit or amenity (excluding the fringe benefits chargeable to tax under Chapter XII-H) as may be prescribed."

Amendment
of section 32.

8. In section 32 of the Income-tax Act, in sub-section (1),—

(a) for clause (iia), the following clause shall be substituted with effect from the 1st day of April, 2006, namely:—

"(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to twenty per cent. of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii):

Provided that no deduction shall be allowed in respect of—

(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or

(C) any office appliances or road transport vehicles; or

(D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(b) in clause (iii), in the Explanation, in clause (2), for the words "an Indian company", the words, brackets, letter and figures "an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of that Act, of any asset by the banking company to the banking institution" shall be substituted.

10 of 1949.

Amendment
of section
33AC.

9. In section 33AC of the Income-tax Act, in sub-section (4), for the words "such sale proceeds", the words, brackets, letter and figure "so much of such sale proceeds which represent the amount credited to the reserve account and utilised for the purposes mentioned in clause (c) of sub-section (3)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

10. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (5), for the figures, letters and words "31st day of March, 2005", the figures, letters and words "31st day of March, 2007" shall be substituted with effect from the 1st day of April, 2006.

Amendment
of section 35.

11. In section 35DDA of the Income-tax Act, in sub-section (1), for the words "at the time of his voluntary retirement", the words "in connection with his voluntary retirement" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

Amendment
of section
35DDA.

12. In section 36 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006,—

Amendment
of section 36.

(a) after clause (iii), the following shall be inserted, namely:—

“(iiiia) the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

Explanation.—For the purposes of this clause, the expressions—

(i) “discount” means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond and the amount payable by such company or fund or public sector company on maturity or redemption of such bond;

(ii) “period of life of the bond” means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) “infrastructure capital company” and “infrastructure capital fund” shall have the same meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10;”;

(b) after clause (xii), the following shall be inserted, namely:—

“(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions “banking cash transaction tax” and “taxable banking transaction” shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005.”

13. In section 40 of the Income-tax Act, in clause (a), after sub-clause (ib), the following sub-clause shall be inserted with effect from the 1st day of April, 2006, namely:—

Amendment
of section 40.

“(ic) any sum paid on account of fringe benefit tax under Chapter XII-H;”.

14. In section 43 of the Income-tax Act, in clause (5), with effect from the 1st day of April, 2006,—

Amendment
of section 43.

(A) in the proviso,—

(i) in clause (c), the word “or” shall be inserted at the end;

(ii) after clause (c), as so amended, the following clause shall be inserted, namely:—

“(d) an eligible transaction in respect of trading in derivatives referred to in clause (aa) of section 2 of the Securities Contracts (Regulation) Act, 1956 carried out in a recognised stock exchange;”;

(B) after the proviso, the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this clause, the expressions—

(i) “eligible transaction” means any transaction,—

(A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (A) and permanent account number allotted under this Act;

(ii) "recognised stock exchange" means a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.

42 of 1956.

Amendment
of section 47.

15. In section 47 of the Income-tax Act, after clause (via), the following clause shall be inserted, namely:—

(viii) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949, of a capital asset by the banking company to the banking institution.

10 of 1949.

Explanation.—For the purposes of this clause,—

(i) "banking company" shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(ii) "banking institution" shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949;

10 of 1949.

Amendment
of section 49.

16. In section 49 of the Income-tax Act, in sub-section (1), in clause (iii), in sub-clause (e), after the words, brackets, figures and letter "or clause (via)", the words, brackets, figures and letters "or clause (viii)" shall be inserted.

Amendment
of section
54EC.

17. In section 54EC of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

"(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006."

Amendment
of section
54ED.

18. In section 54ED of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

"(3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006."

Insertion of
new section
72AA.

Provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in scheme of amalgamation of banking company in certain cases.

19. After section 72A of the Income-tax Act, the following section shall be inserted, namely:—

"72AA. Notwithstanding anything contained in sub-clauses (i) to (iii) of clause (1B) of section 2 or section 72A, where there has been an amalgamation of a banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949, the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

10 of 1949.

Explanation.—For the purposes of this section,—

(i) “accumulated loss” means so much of the loss of the amalgamating banking company under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such amalgamating banking company, would have been entitled to carry forward and set-off under the provisions of section 72 if the amalgamation had not taken place;

10 of 1949.

(ii) “banking company” shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(iii) “banking institution” shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949;

(iv) “unabsorbed depreciation” means so much of the allowance for depreciation of the amalgamating banking company which remains to be allowed and which would have been allowed to such banking company if amalgamation had not taken place.

20. In section 73 of the Income-tax Act, in sub-section (4), for the words “eight assessment years”, the words “four assessment years” shall be substituted with effect from the 1st day of April, 2006.

Amendment
of section 73.

21. After section 80B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely:—

‘80C. (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the whole of the amount paid or deposited in the previous year, being the aggregate of the sums referred to in sub-section (2), as does not exceed one lakh rupees.

Insertion of
new section
80C.
Deduction in
respect of life
insurance
premium,
deferred
annuity,
contributions
to provident
fund,
subscription to
certain equity
shares or
debentures,
etc.

(2) The sums referred to in sub-section (1) shall be any sums paid or deposited in the previous year by the assessee—

(i) to effect or to keep in force an insurance on the life of persons specified in sub-section (4);

(ii) to effect or to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (xii), on the life of persons specified in sub-section (4);

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;

(iii) by way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does not exceed one-fifth of the salary;

19 of 1925.

(iv) as a contribution by an individual to any provident fund to which the Provident Funds Act, 1925, applies;

(v) as a contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of any person specified in sub-section (4);

(vi) as a contribution by an employee to a recognised provident fund;

(vii) as a contribution by an employee to an approved superannuation fund;

(viii) as subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf;

(ix) as subscription to any such savings certificate as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

46 of 1959.

(x) as a contribution, in the name of any person specified in sub-section (4), for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

58 of 2002.

(xi) as a contribution in the name of any person specified in sub-section (4) for participation in any such unit-linked insurance plan of the LIC Mutual Fund notified under clause (23D) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xii) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette, specify;

(xiii) as subscription to any units of any Mutual Fund notified under clause (23D) of section 10 or from the Administrator or the specified company under any plan formulated in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xiv) as a contribution by an individual to any pension fund set up by any Mutual Fund notified under clause (23D) of section 10 or by the Administrator or the specified company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xv) as subscription to any such deposit scheme of, or as a contribution to any such pension fund set up by, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (hereafter in this section referred to as the National Housing Bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

53 of 1987.

(xvi) as subscription to any such deposit scheme of—

(a) a public sector company which is engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(b) any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xvii) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(a) to any university, college, school or other educational institution situated within India;

(b) for the purpose of full-time education of any of the persons specified in sub-section (4);

(xviii) for the purposes of purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the assessee's own residence, have been chargeable to tax under that head), where such payments are made towards or by way of—

(a) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(b) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(c) repayment of the amount borrowed by the assessee from—

(1) the Central Government or any State Government, or

(2) any bank, including a co-operative bank, or

(3) the Life Insurance Corporation, or

(4) the National Housing Bank, or

(5) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (viii) of sub-section (1) of section 36, or

(6) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

(7) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or

(8) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or

(d) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee,

but shall not include any payment towards or by way of—

(A) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(B) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(C) any expenditure in respect of which deduction is allowable under the provisions of section 24;

(xix) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.

Explanation.—For the purposes of this clause,—

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA;

(ii) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956;

(iii) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;

1 of 1956.

(xx) as subscription to any units of any mutual fund referred to in clause (23D) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form:

Provided that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation.—For the purposes of this clause "eligible issue of capital" means an issue referred to in clause (i) of the *Explanation* to clause (xix) of sub-section (2).

(3) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent. of the actual capital sum assured.

Explanation.—In calculating any such actual capital sum assured, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(4) The persons referred to in sub-section (2) shall be the following, namely:—

(a) for the purposes of clauses (i), (v), (x) and (xi) of that sub-section,—

(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a Hindu undivided family, any member thereof;

(b) for the purposes of clause (ii) of that sub-section, in the case of an individual, the individual, the wife or husband and any child of such individual;

(c) for the purposes of clause (xvii) of that sub-section, in the case of an individual, any two children of such individual.

(5) Where, in any previous year, an assessee—

(i) terminates his contract of insurance referred to in clause (i) of sub-section (2), by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,—

(a) in case of any single premium policy, within two years after the date of commencement of insurance; or

(b) in any other case, before premiums have been paid for two years; or

(ii) terminates his participation in any unit-linked insurance plan referred to in clause (x) or clause (xi) of sub-section (2), by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years; or

(iii) transfers the house property referred to in clause (xviii) of sub-section (2) before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any sum specified in that clause,

then,—

(a) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, referred to in clauses (i), (x), (xi) and (xviii) of sub-section (2), paid in such previous year; and

(b) the aggregate amount of the deductions of income so allowed in respect of the previous year or years preceding such previous year, shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(6) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Explanation.—A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

(7) For the purposes of this section,—

(a) the insurance, deferred annuity, provident fund and superannuation fund referred to in clauses (i) to (vii);

(b) unit-linked insurance plan and annuity plan referred to in clauses (xii) to (xiii);

(c) pension fund and subscription to deposit scheme referred to in clauses (xiii) to (xiv);

(d) amount borrowed for purchase or construction of a residential house referred to in clause (xv),

of sub-section (2) of section 88 shall be eligible for deduction under the corresponding provisions of this section and the deduction shall be allowed in accordance with the provisions of this section.

(8) In this section,—

(i) “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

(ii) “contribution” to any fund shall not include any sums in repayment of loan;

(iii) “insurance” shall include—

(a) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(b) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(iv) “Life Insurance Corporation” means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956;

(v) “public company” shall have the same meaning as in section 3 of the Companies Act, 1956;

(vi) “security” means a Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944;

(vii) “specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

(viii) “transfer” shall be deemed to include also the transactions referred to in clause (f) of section 269UA.

58 of 2002.

31 of 1956.

1 of 1956.

18 of 1944.

58 of 2002.

Amendment of
section 80CCC.

22. In section 80CCC of the Income tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(3) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section,—

(a) a rebate with reference to such amount shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction with reference to such amount shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”

Amendment of
section 80CCD.

23. In section 80CCD of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(4) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (1),—

(a) no rebate with reference to such amount shall be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) no deduction with reference to such amount shall be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”

Insertion of
new section
80 CCE.

24. After section 80CCD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely:—

“80CCE. The aggregate amount of deductions under section 80C, section 80CCC and section 80CCD shall not, in any case, exceed one lakh rupees.”

Limit on
deductions
under sections
80C, 80CCC
and 80CCD.

Substitution of
new section for
section 80E.

25. For section 80E of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2006, namely:—

Deduction in
respect of
interest on
loan taken for
higher
education.

“80E. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the interest referred to in sub-section (1) is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section,—

(a) “approved charitable institution” means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government under clause (23C) of section 10 or an institution referred to in clause (a) of sub-section (2) of section 80G;

(b) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) “higher education” means full-time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics;

(d) “initial assessment year” means the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan.”

Amendment
of section
80-IA.

26. In section 80-IA of the Income-tax Act, in sub-section (4), in clause (i), in sub-clause (a), after the words “consortium of such companies”, the words “or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act” shall be inserted with effect from the 1st day of April, 2006.

27. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2006,—
- (a) in sub-section (4), in the fourth proviso, for the figures, letters and words “31st day of March, 2005”, the figures, letters and words “31st day of March, 2007” shall be substituted; Amendment of section 80-IB.
- (b) in sub-section (8A), in clause (iii), for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2007” shall be substituted.
28. Section 80L of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 80L.
29. In section 88 of the Income-tax Act, after sub-section (8), the following sub-section shall be inserted with effect from the 1st day of April, 2006, namely:— Amendment of section 88.
- “(9) No deduction from the amount of income-tax shall be allowed under this section to an assessee, being an individual or a Hindu undivided family for the assessment year beginning on the 1st day of April, 2006 and subsequent years.”.
30. Section 88B of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 88B.
31. Section 88C of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 88C.
32. Section 88D of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 88D.
33. In section 112 of the Income-tax Act, in sub-section (1), in the proviso occurring below clause (d), after the words “being listed securities or unit”, the words “or zero coupon bond” shall be inserted with effect from the 1st day of April, 2006. Amendment of section 112.
34. In section 115A of the Income-tax Act, in sub-section (1), in clause (b), with effect from the 1st day of April, 2006,— Amendment of section 115A.
- (i) in sub-clause (A), for the words, figures and letters “agreement made after the 31st day of May, 1997”, the words, figures and letters “agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005” shall be substituted;
- (ii) after sub-clause (A), the following sub-clause shall be inserted, namely:—
- “(AA) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of ten per cent. if such royalty is received in pursuance of an agreement made on or after the 1st day of June, 2005;”;
- (iii) in sub-clause (B), for the words, figures and letters “agreement made after the 31st day of May, 1997; and”, the words, figures and letters “agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005;” shall be substituted;
- (iv) after sub-clause (B), the following sub-clause shall be inserted, namely:—
- “(BB) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of ten per cent. if such fees for technical services are received in pursuance of an agreement made on or after the 1st day of June, 2005; and”.
35. In section 115JAA of the Income-tax Act, with effect from the 1st day of April, 2006,— Amendment of section 115JAA.
- (a) after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) Where any amount of tax is paid under sub-section (1) of section 115JB by an assessee, being a company for the assessment year commencing on the 1st day of April, 2006 and any subsequent assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.”;
- (b) in sub-section (2), for the words, brackets, figures and letters “under sub-section (1) of section 115JA”, the words, brackets, figures and letters “under sub-

section (1) of section 115JA or under sub-section (1) of section 115JB, as the case may be," shall be substituted.

Amendment of
section 115VD.

36. In section 115VD of the Income-tax Act, clause (vii) shall be omitted with effect from the 1st day of April, 2006.

Insertion of
new Chapter
XII-H.

37. After Chapter XII-G of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2006, namely:—

'CHAPTER XII-H

INCOME-TAX ON FRINGE BENEFITS

A.—Meaning of certain expressions

Definitions.

115W. In this Chapter, unless the context otherwise requires,—

(a) "employer" means,—

(i) a company;

(ii) a firm;

(iii) an association of persons or a body of individuals, whether incorporated or not, but excluding any fund or trust or institution eligible for exemption under clause (23C) of section 10 or registered under section 12AA;

(iv) a local authority; and

(v) every artificial juridical person, not falling within any of the preceding sub-clauses;

(b) "fringe benefit tax" or "tax" means the tax chargeable under section 115WA.

B.—Basis of charge

Charge of
fringe benefit
tax.

115WA. (1) In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent. on the value of such fringe benefits.

(2) Notwithstanding that no income-tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer.

Fringe benefits.

115WB. (1) For the purposes of this Chapter, "fringe benefits" means any consideration for employment provided by way of—

(a) any privilege, service, facility or amenity, directly or indirectly, provided by an employer, whether by way of reimbursement or otherwise, to his employees (including former employee or employees);

(b) any free or concessional ticket provided by the employer for private journeys of his employees or their family members; and

(c) any contribution by the employer to an approved superannuation fund for employees.

(2) The fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred any expense on, or made any payment for, the following purposes, namely:—

(A) entertainment;

(B) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade but does not include—

(i) any expenditure on, or payment for, food or beverages provided by the employer to his employees in office or factory;

(ii) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets;

(C) conference (other than fee for participation by the employees in any conference).

Explanation.—For the purposes of this clause, any expenditure on conveyance, tour and travel (including foreign travel), on hotel, or boarding and lodging in connection with any conference shall be deemed to be expenditure incurred for the purposes of conference;

(D) sales promotion including publicity;

Provided that any expenditure on advertisement,—

(i) being the expenditure (including rental) on advertisement of any form in any print (including journals, catalogues or price lists) or electronic media or transport system;

(ii) being the expenditure on the holding of, or the participation in, any press conference or business convention, fair or exhibition;

(iii) being the expenditure on sponsorship of any sports event or any other event organised by any Government agency or trade association or body;

(iv) being the expenditure on the publication in any print or electronic media of any notice required to be published by or under any law or by an order of a court or tribunal;

(v) being the expenditure on advertisement by way of signs, art work, painting, banners, awnings, direct mail, electric spectacles, kiosks, hoardings, bill boards or by way of such other medium of advertisement; and

(vi) being the expenditure by way of payment to any advertising agency for the purposes of clauses (i) to (v) above,

shall not be considered as expenditure on sales promotion including publicity;

(E) employees' welfare.

Explanation.—For the purposes of this clause, any expenditure incurred or payment made to fulfil any statutory obligation or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer shall not be considered as expenditure for employees' welfare;

(F) conveyance, tour and travel (including foreign travel);

(G) use of hotel, boarding and lodging facilities;

(H) repair, running (including fuel), maintenance of motorcars and the amount of depreciation thereon;

(I) repair, running (including fuel) and maintenance of aircrafts and the amount of depreciation thereon;

(J) use of telephone (including mobile phone) other than expenditure on leased telephone lines;

(K) maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes;

(L) festival celebrations;

(M) use of health club and similar facilities;

(N) use of any other club facilities;

(O) gifts; and

(P) scholarships.

(3) For the purposes of sub-section (1), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee.

115WC. (1) For the purposes of this Chapter, the value of fringe benefits shall be the aggregate of the following, namely:—

(a) cost at which the benefits referred to in clause (b) of sub-section (1) of section 115WB, is provided by the employer to the general public as reduced by the amount, if any, paid by, or recovered from, his employee or employees:

Provided that in a case where the expenses of the nature referred to in clause (b) of sub-section (1) of section 115WB are included in any other clause

Value of fringe benefits.

of sub-section (2) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (b) for computing the value of fringe benefits;

(b) actual amount of the contribution referred to in clause (c) of sub-section (1) of section 115WB;

(c) twenty per cent. of the expenses referred to in clauses (A) to (K) of sub-section (2) of section 115WB;

(d) fifty per cent. of the expenses referred to in clauses (L) to (P) of sub-section (2) of section 115WB;

(2) Notwithstanding anything contained in sub-section (1),—

(a) in the case of an employer engaged in the business of hotel, the value of fringe benefits for the purposes referred to in clause (B) of sub-section (2) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (c) of sub-section (1);

(b) in the case of an employer engaged in the business of construction, the value of fringe benefits for the purposes referred to in clause (F) of sub-section (2) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (c) of sub-section (1);

(c) in the case of an employer engaged in the business of manufacture or production of pharmaceuticals, the value of fringe benefits for the purposes referred to in clauses (F) and (G) of sub-section (2) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (c) of sub-section (1);

(d) in the case of an employer engaged in the business of manufacture or production of computer software, the value of fringe benefits for the purposes referred to in clauses (F) and (G) of sub-section (2) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (c) of sub-section (1);

(e) in the case of an employer engaged in the business of carriage of passengers or goods by motor car, the value of fringe benefits for the purposes referred to in clause (H) of sub-section (2) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (c) of sub-section (1);

(f) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (I) of sub-section (2) of section 115WB shall be taken as Nil.

C.—Procedure for filing of return in respect of fringe benefits, assessment and payment of tax in respect thereof

Return of
fringe benefits.

115WD. (1) Without prejudice to the provisions contained in section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

Explanation.—In this sub-section, "due date" means,—

(a) where the employer is—

(i) a company; or

(ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force, the 31st day of October of the assessment year;

(b) in the case of any other employer, the 31st day of July of the assessment year.

(2) In the case of any employer who, in the opinion of the Assessing Officer, is responsible for paying fringe benefit tax under this Act and who has not furnished a return under sub-section (1), the Assessing Officer may, after the due date, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days

from the date of service of the notice, the return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(3) Any employer responsible for paying fringe benefit tax who has not furnished a return within the time allowed under sub-section (1) or within the time allowed under a notice issued under sub-section (2), may furnish the return for any previous year, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(4) If any employer, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

115WE. (1) Where a return has been made under section 115WD,—

Assessment.

(i) if any tax or interest is found due on the basis of such return, after adjustment of any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

(2) Where a return has been furnished under section 115WD, the Assessing Officer shall, if he considers it necessary or expedient to ensure that the assessee has not under-stated the value of fringe benefits or has not under-paid the tax in any manner, serve on the assessee a notice requiring him on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of twelve months from the end of the month in which the return is furnished.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the value of the fringe benefits paid or payable by the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(4) Where a regular assessment under sub-section (3) or section 115WF is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

115WF. (1) If any person, being an employer—

Best judgment
assessment.

(a) fails to make the return required under sub-section (1) of section 115WD and has not made a return under sub-section (3) or a revised return under sub-section (4) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) of section 115WD or fails to comply with a direction issued under sub-section (2A) of section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 115WE,

the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the fringe benefits to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice as to why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (2) of section 115WD has been issued prior to the making of an assessment under this section.

Fringe benefits
escaping
assessment.

115WG. If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year, he may, subject to the provisions of sections 115WH, 150 and 153, assess or reassess such fringe benefits and also any other fringe benefits chargeable to tax which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section, for the assessment year concerned (hereafter referred to as the relevant assessment year).

Explanation.—For the purposes of this section, the following shall also be deemed to be cases where fringe benefits chargeable to tax have escaped assessment, namely:—

(a) where no return of fringe benefits has been furnished by the assessee;

(b) where a return of fringe benefits has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has under-stated the value of fringe benefits in the return;

(c) where an assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

Issue of notice
where fringe
benefits have
escaped
assessment.

115WH. (1) Before making the assessment or reassessment under section 115WG, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period as may be specified in the notice, a return of the fringe benefits in respect of which he is assessable under this Chapter during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Chapter shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 115WD.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

(3) No notice under sub-section (1) shall be issued for the relevant assessment year after the expiry of six years from the end of the relevant assessment year.

Explanation.—In determining fringe benefits chargeable to tax which have escaped assessment for the purposes of this sub-section, the provisions of the *Explanation* to section 115WG shall apply as they apply for the purposes of that section.

(4) In a case where an assessment under sub-section (3) of section 115WE or section 115WG has been made for the relevant assessment year, no notice shall be issued under sub-section (1) by an Assessing Officer, after the expiry of four years from the end of the relevant assessment year, unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

Payment of
fringe benefit
tax.

115WI. Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of section 115WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that financial year, such fringe benefits being hereafter in this Chapter referred to as the "current fringe benefits".

115WJ. (1) Every assessee who is liable to pay advance tax under section 115WI, shall on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (2).

Advance tax
in respect of
fringe benefits.

(2) The amount of advance tax payable by an assessee in the financial year shall be thirty per cent. of the value of the fringe benefits referred to in section 115WC, paid or payable in each quarter and shall be payable on or before the 15th day of the month following such quarter:

Provided that the advance tax payable for the quarter ending on the 31st day of March of the financial year shall be payable on or before the 15th day of March of the said financial year.

(3) Where an assessee has failed to pay the advance tax for any quarter or where the advance tax paid by him is less than thirty per cent. of the value of fringe benefits paid or payable in that quarter, he shall be liable to pay simple interest at the rate of one per cent. on the amount by which the advance tax paid falls short of, thirty per cent. of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.

115WK. (1) Where the return of fringe benefits for any assessment year under sub-section (1) or sub-section (3) of section 115WD or in response to a notice under sub-section (2) of that section, is furnished after the due date, or is not furnished, the employer shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

Interest for
default in
furnishing
return of fringe
benefits.

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under section 115WF,

on the amount of tax on the value of fringe benefits as determined under sub-section (1) of section 115WE or regular assessment as reduced by the advance tax paid under section 115WJ.

Explanation 1.—In this section, “due date” means the date specified in the *Explanation* to sub-section (1) of section 115WD as applicable in the case of the employer.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 115WG, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The provisions contained in sub-sections (2) to (4) of section 234A shall, so far as may be, apply to this section.

115WL. Save as otherwise provided in this Chapter, all other provisions of this Act shall, as far as may be, apply in relation to fringe benefits also.’

Application
of other
provisions
of this Act.

38. In section 119 of the Income-tax Act, in sub-section (2), in clause (a), with effect from the 1st day of April, 2006,—

Amendment
of section
119.

(i) for the word, figures and letters “sections 115P, 115S”, the word, figures and letters “sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK” shall be substituted;

(ii) for the words “any class of incomes”, the words “any class of incomes or fringe benefits” shall be substituted.

39. In section 124 of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2006,—

Amendment
of section 124.

(i) in clause (a),—

(A) for the words, brackets and figures “under sub-section (1) of section 139”, the words, brackets, figures and letters “under sub-section (1) of section 115WD or under sub-section (1) of section 139” shall be substituted;

(B) for the words, brackets and figures "sub-section (2) of section 143", the words, brackets, figures and letters "sub-section (2) of section 115WE or sub-section (2) of section 143" shall be substituted;

(ii) in clause (b), for the words, brackets and figures "sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144", the words, brackets, figures and letters "sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144" shall be substituted.

Amendment of
section 139.

40. In section 139 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of April, 2006,—

(i) in clause (a), for the word "company", the words "company or a firm" shall be substituted;

(ii) in clause (b), for the words "other than a company", the words "other than a company or a firm" shall be substituted;

(iii) in the first proviso,—

(A) for the words "at any time during the previous year", the words "during the previous year incurs an expenditure of fifty thousand rupees or more towards consumption of electricity or at any time during the previous year" shall be substituted;

(B) clause (iii) shall be omitted;

(iv) in the third proviso, for the word "company", the words "company or a firm" shall be substituted;

(v) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the provisions of section 10A or section 10B or section 10BA or Chapter VI-A exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed."

(b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), for the words, figures and letters "before the 1st day of April, 2005", the words, figures and letters "before the 1st day of April, 2006" shall be substituted.

Amendment of
section 139A.

41. In section 139A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006,—

(a) in clause (iii), for the words, brackets, figures and letter "sub-section (4A) of section 139", the following shall be substituted, namely:—

"sub-section (4A) of section 139; or

(iv) being an employer, who is required to furnish a return of fringe benefits under section 115WD,";

(b) in sub-section (7), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that any person, who has been allotted a permanent account number under any clause other than clause (iv) of sub-section (1), shall not be required to obtain another permanent account number and the permanent account number already allotted to him shall be deemed to be the permanent account number in relation to fringe benefit tax."

42. In section 140 of the Income-tax Act, in the opening portion, for the words and figures "under section 139", the words, figures and letters "under section 115WD or section 139" shall be substituted with effect from the 1st day of April, 2006.

Amendment of section 140.

43. In section 140A of the Income-tax Act, with effect from the 1st day of April, 2006,—

Amendment of section 140A.

(a) in sub-section (1), for the word and figures "section 139", the words, figures and letters "section 115WD or section 115WH or section 139" shall be substituted;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:—

"(1A) For the purposes of sub-section (1), interest payable,—

(i) under section 234A shall be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source;

(ii) under section 115WK shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid, if any.”;

(c) in sub-section (2), for the word and figures "section 143", the words, figures and letters "section 115WE or section 115WF or section 143" shall be substituted.

44. In section 142 of the Income-tax Act, in sub-section (1), for the words, figures and brackets "under section 139 or in whose case the time allowed under sub-section (1) of that section", the words, figures, letters and brackets "under section 115WD or section 139 or in whose case the time allowed under sub-section (1) of section 139" shall be substituted with effect from the 1st day of April, 2006.

Amendment of section 142.

45. In section 153 of the Income-tax Act, with effect from the 1st day of April, 2006,—

Amendment of section 153.

(a) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) No order of assessment shall be made under section 115WE or section 115WF at any time after the expiry of two years from the end of the assessment year in which the fringe benefits were first assessable.

(1B) No order of assessment or reassessment shall be made under section 115WG after the expiry of one year from the end of the financial year in which the notice under section 115WH was served.”;

(b) in sub-section (2A), for the words, brackets and figures "in sub-sections (1) and (2)", the words, brackets, figures and letters "in sub-sections (1), (1A), (1B) and (2)" shall be substituted;

(c) in sub-section (3), for the words, brackets and figures "sub-sections (1) and (2)", the words, brackets, figures and letters "sub-sections (1), (1A), (1B) and (2)" shall be substituted;

(d) in the proviso to *Explanation 1*, for the words, brackets, figures and letter "in sub-sections (1), (2) and (2A)", the words, brackets, figures and letters "in sub-sections (1), (1A), (1B), (2) and (2A)" shall be substituted.

46. In section 153B of the Income-tax Act, in sub-section (1), after clause (b) and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

Amendment of section 153B.

"Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or one year from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.”.

47. In the Income-tax Act, with effect from the 1st day of June, 2003,—

Amendment of section 153C.

(a) section 153C shall be numbered as sub-section (1) thereof and in sub-section (1) as so numbered, the following proviso shall be inserted and shall be deemed to have been inserted, namely:—

"Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person.";

(b) after sub-section (1) as so numbered, the following sub-section shall be inserted and shall be deemed to have been inserted, namely:—

"(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or

(c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A."

Amendment of
section 194A.

48. In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2005,—

(i) after clause (ix), the following clause shall be inserted, namely:—

"(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company;"

(ii) for the *Explanation*, the following *Explanations* shall be substituted, namely:—

Explanation 1.—For the purposes of clauses (i), (vii) and (viii), "time deposits" means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.

Explanation 2.—For the purposes of clause (x), "infrastructure capital company" and "infrastructure capital fund" shall have the meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10."

Amendment of
section 194C.

49. In section 194C of the Income-tax Act, in sub-section (3), in clause (i), with effect from the 1st day of June, 2005,—

(a) in the proviso, for the words "under this section; or", the words "under this section:" shall be substituted;

(b) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that no deduction shall be made under sub-section (2), from the amount of any sum credited or paid or likely to be credited or paid during the previous year to the account of the sub-contractor during the course of business of plying, hiring or leasing goods carriages, on production of a declaration to the person concerned paying or crediting such sum, in the prescribed form and verified in the prescribed manner and within such time as may be prescribed, if such sub-contractor is an individual who has not owned more than two goods carriages at any time during the previous year:

Provided also that the person responsible for paying any sum as aforesaid to the sub-contractor referred to in the second proviso shall furnish to the prescribed income-tax authority or the person authorised by it such particulars as may be prescribed in such form and within such time as may be prescribed; or";

(c) after clause (iii), the following *Explanation* shall be inserted, namely:—

'*Explanation.*—For the purposes of clause (i), "goods carriage" shall have the same meaning as in the *Explanation* to sub-section (7) of section 44AE.'

50. In section 199 of the Income-tax Act, in sub-section (3), for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2006" shall be substituted.

Amendment of section 199.

51. In section 203 of the Income-tax Act, in sub-section (3), for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2006" shall be substituted.

Amendment of section 203.

52. After section 206 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2005, namely:—

Insertion of new section 206A.

"206A. (1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding five thousand rupees by way of interest (other than interest on securities), shall prepare quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority the quarterly returns as aforesaid, in the prescribed form, verified in such manner and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

(2) The Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare and deliver or cause to be delivered quarterly returns in the prescribed form and verified in such manner and within such time as may be prescribed, to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media."

53. In section 206C of the Income-tax Act,—

Amendment of section 206C.

(a) in sub-section (4), in the proviso, for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2006" shall be substituted;

(b) in sub-section (5), in the first proviso, for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2006" shall be substituted.

54. In section 238 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 2006, namely:—

Amendment of section 238.

“(1A) Where the value of fringe benefits provided or deemed to have been provided by one employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this Chapter in respect of such fringe benefits.”.

Amendment of
section 239.

55. In section 239 of the Income-tax Act, in sub-section (2), after clause (c), the following clause shall be inserted with effect from the 1st day of April, 2006, namely:—

“(d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, one year from the last day of such assessment year.”.

Amendment of
section 244A.

56. In section 244A of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1), in clause (a),—

(i) for the words “out of any tax”, the words, figures and letters “out of any tax paid under section 115WJ or” shall be substituted;

(ii) in the proviso, for the words “under sub-section”, the words, brackets, figures and letters “under sub-section (1) of section 115WE or sub-section” shall be substituted;

(b) in sub-section (3), for the words “result of an order under”, the words, brackets, figures and letters “result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or” shall be substituted;

(c) in sub-section (4), the following proviso shall be inserted, namely:—

“Provided that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures “1989”, the figures “2006” had been substituted.”.

Amendment of
section 246A.

57. In section 246A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006,—

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) an order of assessment under sub-section (3) of section 115WE or section 115WF, where the assessee, being an employer objects to the value of fringe benefits assessed;

(ab) an order of assessment or reassessment under section 115WG;”;

(ii) in clause (j), in sub-clause (B), for the word, figures and letter “section 271F”, the words, figures and letters “section 271F, section 271FB” shall be substituted.

Amendment of
section 271.

58. In section 271 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1),—

(A) in clause (b), for the words, brackets and figures “under sub-section (1) of section 142”, the words, brackets, figures and letters “under sub-section (2) of section 115WD or under sub-section (2) of section 115WE or under sub-section (1) of section 142” shall be substituted;

(B) in clause (c), for the words “such income”, the words “such income, or” shall be substituted;

(C) after clause (c), the following clause shall be inserted, namely:—

“(d) has concealed the particulars of the fringe benefits or furnished inaccurate particulars of such fringe benefits,”;

(D) in sub-clause (iii),—

(i) for the word, brackets and letter “clause (c)”, the words, brackets and letters “clause (c) or clause (d)” shall be substituted;

(ii) for the word “income”, at both the places where it occurs, the words “income or fringe benefits” shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Any reference in this section to the income shall be construed as a reference to the income or fringe benefits, as the case may be, and the provisions of this section shall, as far as may be, apply in relation to any assessment in respect of fringe benefits also.”.

59. After section 271FA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely:—

Insertion of new section 271FB.

“271FB. If an employer, who is required to furnish a return of fringe benefits, as required under sub-section (1) of section 115WD, fails to furnish such return within the time prescribed under that sub-section, the Assessing Officer may direct that such employer shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.”.

Penalty for failure to furnish return of fringe benefits.

60. In section 272A of the Income-tax Act, in sub-section (2), after clause (k), the following clause shall be inserted with effect from the 1st day of June, 2005, namely:—

Amendment of section 272A.

“(l) to deliver or cause to be delivered the quarterly return within the time specified in sub-section (1) of section 206A,”.

61. In section 273B of the Income-tax Act, for the word, figures and letters “section 271FA”, the words, figures and letters “section 271FA, section 271FB” shall be substituted with effect from the 1st day of April, 2006.

Amendment of section 273B.

62. In section 276CC of the Income-tax Act, with effect from the 1st day of April, 2006,—

Amendment of section 276CC.

(a) in the opening portion, after the words “in due time”, the words, brackets, figures and letters “the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or” shall be inserted;

(b) in the proviso, for the words, brackets and figures “return of income under sub-section (1) of section 139”, the words, brackets, figures and letters “return of fringe benefits under sub-section (1) of section 115WD or return of income under sub-section (1) of section 139” shall be substituted.

63. In section 278 of the Income-tax Act, for the words “any income chargeable to tax”, the words “any income or any fringe benefits chargeable to tax” shall be substituted with effect from the 1st day of April, 2006.

Amendment of section 278.

64. In section 295 of the Income-tax Act, in sub-section (2), clause (e) shall be omitted with effect from the 1st day of April, 2006.

Amendment of section 295.

CHAPTER IV

INDIRECT TAXES

Customs

Amendment
of section
28E.

65. In section 28E of the Customs Act, 1962 (hereinafter referred to as the Customs Act),— 52 of 1962.

(a) for clause (c), the following clause shall be substituted, namely:—

'(c) "applicant" means—

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 28H;";

(b) in clause (e), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

Amendment
of section
28F.

66. In section 28F of the Customs Act, in sub-section (1), for the words "the Authority for Advance Rulings", the words and brackets "the Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

Amendment
of section
28H.

67. In section 28H of the Customs Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

"(e) determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975 and matters relating thereto."

51 of 1975.

Amendment
of section
127MA.

68. In section 127MA of the Customs Act,—

(a) in sub-section (6), for the word, figures and letter "section 127C", the words, figures, letters and brackets "section 127C and sub-section (1) of section 127-I" shall be substituted;

(b) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) The Settlement Commission may, if it is of opinion that any person who made an application under sub-section (5) has not co-operated with the proceedings before it, send the case back to the Appellate Tribunal and the provisions containing in section 129A, section 129B and section 129C shall, so far as may be, apply accordingly."

Amendment
of section
128A.

69. In section 128A of the Customs Act, in sub-section (5), for the words "and the Commissioner of Customs", the words ", the Chief Commissioner of Customs and the Commissioner of Customs" shall be substituted.

Amendment
of section
129A.

70. In section 129A of the Customs Act,—

(a) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be."

(b) in sub-section (2),—

(i) for the words "The Commissioner of Customs may, if he is", the words "The Committee of Commissioners of Customs may, if it is" shall be substituted;

(ii) for the words "on his behalf", the words "on its behalf" shall be substituted.

71. In section 129D of the Customs Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Customs" shall respectively be substituted.

Amendment of section 129D.

Customs tariff

51 of 1975.

72. For section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), the following section shall be substituted, namely:—

Substitution of new section for section 3.

'3. (1) Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article:

Levy of additional duty equal to excise duty, sales tax, local taxes and other charges.

Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States or, if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

Explanation.—In this sub-section, the expression "the excise duty for the time being leviable on a like article if produced or manufactured in India" means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

(2) For the purpose of calculating under sub-sections (1) and (3), the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

52 of 1962.

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

52 of 1962.

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include—

52 of 1962.

(a) the duty referred to in sub-sections (1), (3) and (5);

(b) the safeguard duty referred to in sections 8B and 8C;

(c) the countervailing duty referred to in section 9; and

(d) the anti-dumping duty referred to in section 9A:

Provided that in case of an article imported into India,—

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

60 of 1976.

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944,

1 of 1944.

the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of section 4A of the Central Excise Act, 1944.

1 of 1944.

Explanation.—Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

(3) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or not] such additional duty as would counter-balance the excise duty leviable on any raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of such article, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty representing such portion of the excise duty leviable on such raw materials, components and ingredients as, in either case, may be determined by rules made by the Central Government in this behalf.

(4) In making any rules for the purposes of sub-section (3), the Central Government shall have regard to the average quantum of the excise duty payable on the raw materials, components or ingredients used in the production or manufacture of such like article.

(5) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or, as the case may be, sub-section (3) or not] such additional duty as would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty at a rate not exceeding four per cent. of the value of the imported article as specified in that notification.

Explanation.—In this sub-section, the expression "sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India" means the sales tax, value added tax, local tax or other charges for the time being in force, which would be leviable on a like article if sold, purchased or transported in India or, if a like article is not so sold, purchased or transported, which would be leviable on the class or description of articles to which the imported article belongs, and where such taxes, or, as the case may be, such charges are leviable at different rates, the highest such tax or, as the case may be, such charge.

(6) For the purpose of calculating under sub-section (5), the additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in sub-section (2) of section 14 of the Customs Act, 1962, be the aggregate of—

52 of 1962.

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

52 of 1962.

52 of 1962.

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include—

- (a) the duty referred to in sub-section (5);
- (b) the safeguard duty referred to in sections 8B and 8C;
- (c) the countervailing duty referred to in section 9; and
- (d) the anti-dumping duty referred to in section 9A.

(7) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

52 of 1962.

(8) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

73. Section 3A of the Customs Tariff Act shall be omitted.

Omission of
section 3A.
Amendment
of First
Schedule.

74. In the Customs Tariff Act, the First Schedule shall be amended in the manner as specified in the Second Schedule.

Excise

1 of 1944.

75. In section 5A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section 5A.

"(1A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods."

76. In section 23A of the Central Excise Act,—

Amendment
of section
23A.

(a) for clause (c), the following clause shall be substituted, namely:—

"(c) 'applicant' means—

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,
who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 23C;";

(b) in clause (e), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

77. In section 32PA of the Central Excise Act,—

Amendment
of section
32PA.

(a) in sub-section (6), for the word, figures and letter "section 32F", the words, figures, letters and brackets "section 32F and sub-section (1) of section 32L" shall be substituted;

(b) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) The Settlement Commission may, if it is of opinion that any person who made an application under sub-section (5) has not co-operated with the proceedings before it, send the case back to the Appellate Tribunal and the provisions containing in section 35B, section 35C and section 35D shall, so far as may be, apply accordingly."

Amendment
of section
35A.

78. In section 35A of the Central Excise Act, in sub-section (5), for the words "and the Commissioner of Central Excise", the words "the Chief Commissioner of Central Excise and the Commissioner of Central Excise" shall be substituted.

Amendment
of section
35B.

79. In section 35B of the Central Excise Act,—

(a) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) (i) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be."

(b) in sub-section (2),—

(i) for the words "The Commissioner of Central Excise may, if he is", the words "The Committee of Commissioners of Central Excise may, if it is" shall be substituted;

(ii) for the words "on his behalf", the words "on its behalf" shall be substituted.

54 of 1963.

Amendment
of section
35E.

80. In section 35E of the Central Excise Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Central Excise" shall respectively be substituted.

Substitution of
new Schedule
for Third
Schedule.

81. For the Third Schedule to the Central Excise Act, the Schedule specified in the Third Schedule shall be substituted.

Amendment
of Central
Excise Rules,
1944.

82. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act,—

(a) rule 57CC as inserted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 324(E), dated the 23rd July, 1996;

(b) rule 57CC as substituted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 122(E), dated the 1st March, 1997; and

(c) rule 57D as substituted by the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 203(E), dated the 1st March, 2000, as substituted as rule 57AD by rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India, vide notification of Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 298(E), dated the 31st March, 2000,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (3) of the Fourth Schedule on and from the corresponding date specified in column (4) of that Schedule against each of the rules specified in column (2) of that Schedule.

(2) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of August, 1996 and ending with

the 30th day of June, 2001 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;

(b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

83. (1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 6 thereof as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 445(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Fifth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

Amendment
of rule 6 of
the
CENVAT
Credit Rules,
2001.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for the non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;

(b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Amendment
of
notification
issued under
section 5A of
the Central
Excise Act.

84. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 277(E), dated the 1st March, 1988, issued under sub-section (1) of section 5A of the Central Excise Act by the Central Government, shall stand amended and shall be deemed to have been amended in the manner as specified in the Sixth Schedule, for the period commencing on and from the 21st day of February, 2000 to the 28th day of February, 2003 (both days inclusive) retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the said notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.

(3) No recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, for which demand notices have been issued under section 11A or, recovery proceeding have been initiated under section 11 of the Central Excise Act, as if the amendment made by sub-section (1), had been in force at all material times.

(4) Refund shall be made of all such duties which have been collected but which would not have been so collected if the amendment made by sub-section (1) had been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(5) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the duty of excise under sub-section (4) shall be made within one month from the day on which the Finance Bill, 2005 receives the assent of the President.

Additional
duty of excise
(pan masala
and certain
tobacco
products).

85. (1) In the case of goods specified in the Seventh Schedule, being goods produced or manufactured in India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rates specified in the said Schedule.

(2) The additional duty of excise referred to in sub-section (1) shall be in addition to any other duty of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of goods specified in the Seventh Schedule as they apply in relation to the levy and collection of the duty of excise on such goods under the Central Excise Act or, as the case may be, the rules made thereunder.

Excise Tariff

Amendment
of First
Schedule and
Second
Schedule.

86. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) the First Schedule shall be amended in the manner specified in the Eighth Schedule;

(b) the Second Schedule shall be amended in the manner specified in the Ninth Schedule.

87. (1) In the First Schedule to the Central Excise Tariff Act, in Chapter 15, after NOTE 4, the following NOTE shall be inserted and shall be deemed to have been inserted for the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive), namely:—

Amendment
of Chapter 15
of First
Schedule.

"5. In relation to refined edible vegetable oils falling under Heading Nos. or headings 15.02 and 15.03, the process of refining, that is to say, any one or more of the processes, namely, treatment of crude oil with an alkali, bleaching and deodorisation, shall amount to 'manufacture'."

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive) (hereafter in this section referred to as the said period) under the Central Excise Tariff Act, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) all duties of excise levied, assessed or collected during the said period on any excisable goods under the Central Excise Act, shall be deemed to be and shall be deemed always to have been, as validly levied, assessed or collected as if the amendment made by sub-section (1) had been in force at all material times;

(b) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority for the refund of, and no enforcement shall be made by any court, tribunal or other authority of any decree or order directing the refund of, any such duty of excise which have been collected and which would have been validly collected if the amendment made by sub-section (1) had been in force at all material times.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the Chapter referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said Chapter, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

CHAPTER V

SERVICE TAX

88. In the Finance Act, 1994,—

(a) in section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

Amendment
of Act 32 of
1994.

(i) in clause (9), for the words "service or repair", the words "service, repair, reconditioning or restoration" shall be substituted;

(ii) in clause (15), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(iii) in clause (16), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other

means to cable operator, including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(iv) for clause (17), the following clause shall be substituted, namely:—

(17) "beauty treatment" includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services;";

(v) in clause (19),—

(i) in sub-clause (iv), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, "inputs" means all goods or services intended for use by the client;";

(ii) for sub-clause (v), the following sub-clause shall be substituted, namely:—

"(v) production or processing of goods for, or on behalf of, the client;";

(iii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause,—

(a) "commission agent" means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person—

(i) deals with goods or services or documents of title to such goods or services; or

(ii) collects payment of sale price of such goods or services; or

(iii) guarantees for collection or payment for such goods or services; or

(iv) undertakes any activities relating to such sale or purchase of such goods or services;

(b) "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerised data processing or system networking, or any other service primarily in relation to operation of computer systems;";

(vi) after clause (24a), the following clause shall be inserted, namely:—

(24b) "cleaning activity" means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of—

(i) commercial or industrial buildings and premises thereof; or

(ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof,

but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying;";

(vii) after clause (25), the following clauses shall be inserted, namely:—

(25a) "club or association" means any person or body of persons providing services, facilities or advantages, for a subscription or any other amount, to its members, but does not include—

(i) any body established or constituted by or under any law for the time being in force; or

(ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or

(iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(iv) any person or body of persons associated with press or media;

(25b) "commercial or industrial construction service" means—

(a) construction of a new building or a civil structure or a part thereof; or

(b) construction of pipeline or conduit; or

(c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or

(d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit,

which is—

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams;'

(viii) for clause (30a), the following clause shall be substituted, namely:—

(30a) "construction of complex" means—

(a) construction of a new residential complex or a part thereof; or

(b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;'

(ix) after clause (36), the following clause shall be inserted, namely:—

(36a) "dredging" includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary;'

(x) for clause (39a), the following clause shall be substituted, namely:—

'(39a) "erection, commissioning or installation" means any service provided by a commissioning and installation agency, in relation to,—

(i) erection, commissioning or installation of plant, machinery or equipment; or

(ii) installation of—

(a) electrical and electronic devices, including wirings or fittings therefor; or

(b) plumbing, drain laying or other installations for transport of fluids; or

(c) heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work; or

(d) thermal insulation, sound insulation, fire proofing or water proofing; or

(e) lift and escalator, fire escape staircases or travelators; or

(f) such other similar services;';

(xi) for clause (47), the following clause shall be substituted, namely:—

'(47) "franchise" means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;';

(xii) in clause (55b), in sub-clause (a), for the words ", whether permanently or otherwise", the word "temporarily" shall be substituted;

(xiii) after clause (63), the following clause shall be inserted, namely:—

'(63a) "mailing list compilation and mailing" means any service in relation to—

(i) compiling and providing list of name, address and any other information from any source; or

(ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing,

for, or on behalf of, the client;';

(xiv) for clause (64), the following clause shall be substituted, namely:—

'(64) "maintenance or repair" means any service provided by—

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him,

in relation to,—

(a) maintenance or repair including reconditioning or restoration, or servicing of any goods or equipment, excluding motor vehicle; or

(b) maintenance or management of immovable property;';

(xv) for clause (68), the following clause shall be substituted, namely:—

'(68) "manpower recruitment or supply agency" means any commercial concern engaged in providing any service, directly or indirectly,

in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client;'

(xvi) in clause (76a), after the words "other than his own", the words "but including a place provided by way of tenancy or otherwise by the person receiving such services" shall be inserted;

(xvii) after clause (76a), the following clause shall be inserted, namely:—

'(76b) "packaging activity" means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to 'manufacture' within the meaning of clause (f) of section 2 of the Central Excise Act, 1944;'

(xviii) after clause (91), the following shall be inserted, namely:—

'(91a) "residential complex" means any complex comprising of—

(i) a building or buildings, having more than twelve residential units;

(ii) a common area; and

(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause,—

(a) "personal use" includes permitting the complex for use as residence by another person on rent or without consideration;

(b) "residential unit" means a single house or a single apartment intended for use as a place of residence;'

(xix) after clause (97), the following clause shall be inserted, namely:—

'(97a) "site formation and clearance, excavation and earthmoving and demolition" includes,—

(i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or

(ii) soil stabilization; or

(iii) horizontal drilling for the passage of cables or drain pipes;

or

(iv) land reclamation work; or

(v) contaminated top soil stripping work; or

(vi) demolition and wrecking of building, structure or road,

but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies;'

(xx) for clause (98), the following clause shall be substituted, namely:—

'(98) "sound recording" means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing

of sound and sound mixing or re-mixing or any audio post-production activity;";

(xxi) after clause (104a), the following clause shall be inserted, namely:—

'(104b) "survey and map-making" means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral;";

(xxii) in clause (105),—

(a) for the words "service provided", the words "service provided or to be provided" shall be substituted;

(b) for sub-clause (k), the following sub-clause shall be substituted, namely:—

"(k) to a client, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner;";

(c) in sub-clause (m), for the words "provided to the client in relation to such use and also the services, if any, rendered as a caterer", the words "provided or to be provided to the client in relation to such use and also the services, if any, provided or to be provided as a caterer" shall be substituted;

(d) in sub-clause (zk), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(e) in sub-clause (zo), for the words "or repair of motor cars", the words ", repair, reconditioning or restoration of motor cars, light motor vehicles" shall be substituted;

(f) sub-clause (zzf) shall be omitted;

(g) in sub-clause (zzk), for the words, brackets and letters "sub-clauses (zm) and (zp)", the word, brackets and letters "sub-clause (zm)" shall be substituted;

(h) in sub-clause (zzq), for the words "construction service", the words "commercial or industrial construction service" shall be substituted;

(i) in sub-clause (zzw), for the word "rendered", the words "provided or to be provided" shall be substituted;

(j) after sub-clause (zy), the following sub-clauses shall be inserted, namely:—

"(zzz) to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit;

(zzza) to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities;

(zzzb) to any person, by any other person, in relation to dredging;

(zzzc) to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making;

(zzzd) to any person, by any other person, in relation to cleaning activity;

(zzze) to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount;

(zzzf) to any person, by any other person, in relation to packaging activity;

(zzzg) to any person, by any other person, in relation to mailing list compilation and mailing;

(zzzh) to any person, by any other person, in relation to construction of complex;"

(k) at the end, the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India, such service shall be deemed to be taxable service for the purposes of this clause;"

(xxiii) for clause (120), the following clause shall be substituted, namely:—

"(120) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner;"

(b) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(i) for the brackets and letters "(zzf), (zzk)", the brackets and letters "(zzk)" shall be substituted;

(ii) for the word, brackets and letters "and (zzy)", the brackets, letters and word ", (zzy), (zzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg) and (zzzh)" shall be substituted;

(c) in section 67,—

(i) for the words "rendered by him", the words "provided or to be provided by him" shall be substituted;

(ii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

"*Explanation 3*.—For the removal of doubts, it is hereby declared that the gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.";

(d) section 69 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The Central Government may, by notification in the Official Gazette, specify such other person or class of persons, who shall make an application for registration within such time and in such manner and in such form as may be prescribed.";

(e) section 70 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.";

(f) in section 73, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", wherever they occur, the words "Central Excise Officer" shall be substituted;

(g) in section 74, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", wherever they occur, the words "Central Excise Officer" shall be substituted;

(h) in section 78, in the first proviso, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", the words "Central Excise Officer" shall be substituted;

(i) in section 83, for the figures and letter "15, 35F", the figures and letters "15, 33A, 35F" shall be substituted;

(j) after section 83, the following section shall be inserted, namely:—

'83A: Where under this Chapter or the rules made thereunder any person is liable to a penalty, such penalty may be adjudged by the Central Excise Officer conferred with such power as the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, may, by notification in the Official Gazette, specify.";

54 of 1963.

(k) in section 84,—

(a) in sub-section (1), for the words "which has been taken by the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "in which an adjudicating authority subordinate to him has passed any decision or order" shall be substituted;

(b) in sub-section (3), for the words "the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "such adjudicating authority" shall be substituted;

(l) in section 85,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).";

(b) in sub-section (3), for the words "the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "such adjudicating authority" shall be substituted;

(m) in section 86,—

(a) in sub-section (1), for the word and figures "section 84", the words, figures and letter "section 73 or section 83A or section 84" shall be substituted;

Power of
adjudication.

(b) in sub-section (2), for the word and figures "section 84", the words, figures and letter "section 73 or section 83A or section 84" shall be substituted;

(c) in sub-section (2A), for the words "the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to appeal", the words "any Central Excise Officer to appeal on his behalf" shall be substituted;

(d) in sub-section (4), for the words "Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise", the words "any Central Excise Officer subordinate to him" shall be substituted;

(n) in section 94, in sub-section (2),—

(i) in clause (b), for the words and figures "under section 69", the words, brackets and figures "under sub-sections (1) and (2) of section 69" shall be substituted;

(ii) in clause (c), for the words and figures "under section 70", the words, brackets and figures "under sub-sections (1) and (2) of section 70" shall be substituted;

(o) in section 96A,—

(i) for clause (b), the following clause shall be substituted, namely:—

'(b) "applicant" means,—

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 96C;";

(ii) in clause (d), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

CHAPTER VI

CENTRAL SALES TAX

74 of 1956.

89. In section 2 of the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act),—

Amendment
of section 2.

(a) in clause (h), the following proviso shall be inserted at the end, namely:—

"Provided that in the case of a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, the sale price of such goods shall be determined in the prescribed manner by making such deduction from the total consideration for the works contract as may be prescribed and such price shall be deemed to be the sale price for the purposes of this clause.";

(b) for clause (i), the following clause shall be substituted, namely:—

'(i) "sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of taxes on the sale or purchase of goods generally or on any specified goods expressly mentioned in that behalf and includes value added tax law, and "general sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of tax on the sale or purchase of goods generally and includes value added tax law;'

(c) after clause (j), the following clause shall be inserted, namely:—

'(ja) "works contract" means a contract for carrying out any work which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;'

Amendment
of section 5.

90. In section 5 of the Central Sales Tax Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

'(4) The provisions of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.

(5) Notwithstanding anything contained in sub-section (1), if any designated Indian carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export of goods out of the territory of India.

Explanation.— For the purposes of this sub-section, "designated Indian carrier" means any carrier which the Central Government may, by notification in the Official Gazette, specify in this behalf.'

Amendment
of section 6.

91. In section 6 of the Central Sales Tax Act, for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) Notwithstanding anything contained in this Act, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce, to any official, personnel, consular or diplomatic agent of—

(i) any foreign diplomatic mission or consulate in India; or

(ii) the United Nations or any other similar international body,

entitled to privileges under any convention or agreement to which India is a party or under any law for the time being in force, if such official, personnel, consular or diplomatic agent, as the case may be, has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(4) The provisions of sub-section (3) shall not apply to the sale of goods made in the course of inter-State trade or commerce unless the dealer selling such goods furnishes to the prescribed authority a certificate in the prescribed manner on the prescribed form duly filled and signed by the official, personnel, consular or diplomatic agent, as the case may be."

Amendment of
section 13.

92. In section 13 of the Central Sales Tax Act, in sub-section (1), clause (aa) shall be re-lettered as clause (ab) thereof, and before clause (ab) as so re-lettered, the following clause shall be inserted, namely:—

"(aa) the manner of determination of the sale price and the deductions from the total consideration for a works contract under the proviso to clause (h) of section 2;".

CHAPTER VII

BANKING CASH TRANSACTION TAX

Extent,
commencement
and
application.

93. (1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force on the 1st day of June, 2005.

(3) It shall apply to taxable banking transactions entered into on or after the commencement of this Chapter.

94. In this Chapter, unless the context otherwise requires,—

Definitions.

43 of 1961.

(1) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961;

(2) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(3) "banking cash transaction tax" means tax leviable on the taxable banking transactions under the provisions of this Chapter;

54 of 1963.

(4) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

43 of 1961.

(5) "person" shall have the same meaning as in clause (31) of section 2 of the Income-tax Act, 1961 and includes an office or establishment of the Central Government or the Government of a State;

(6) "prescribed" means prescribed by rules made by the Board under this Chapter;

23 of 1955.

38 of 1959.

5 of 1970.

40 of 1980.

2 of 1934.

(7) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(8) "taxable banking transaction" means—

(a) a transaction, being withdrawal of cash (by whatever mode) on any single day from an account (other than a savings bank account) maintained with any scheduled bank, exceeding,—

(i) twenty-five thousand rupees, in case such withdrawal is from the account maintained by any individual or Hindu undivided family;

(ii) one lakh rupees, in case such withdrawal is from the account maintained by a person other than any individual or Hindu undivided family; or

(b) a transaction, being receipt of cash from any scheduled bank on any single day on encashment of one or more term deposits, whether on maturity or otherwise, from that bank, exceeding,—

(i) twenty-five thousand rupees, in case such term deposit or deposits are in the name of any individual or Hindu undivided family;

(ii) one lakh rupees, in case such term deposit or deposits are by any person other than any individual or Hindu undivided family;

26 of 1881.

2 of 1934.

10 of 1949.

43 of 1961.

(9) words and expressions used but not defined in this Chapter and defined in the Negotiable Instruments Act, 1881, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the Income-tax Act, 1961, or the rules or regulations made thereunder, shall apply, so far as may be, in relation to banking cash transaction tax.

95. (1) On and from the commencement of this Chapter, there shall be charged a banking cash transaction tax, in respect of every taxable banking transaction entered into on or after the 1st day of June, 2005, at the rate of 0.1 per cent. of the value of every such taxable banking transaction.

Charge of
banking cash
transaction
tax.

(2) The banking cash transaction tax referred to in sub-section (1) shall be payable,—

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of section 94, by the individual or Hindu undivided family referred to in item (i) or a person referred to in item (ii) of said sub-clause (a), from whose account the cash is withdrawn from any scheduled bank;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of section 94, by the person who receives the cash on encashment of term deposit or deposits:

Provided that no banking cash transaction tax shall be payable if the amount of the term deposit or deposits is credited to any account with the bank.

Value of
taxable
banking
transaction.

96. The value of taxable banking transaction shall be,—

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of section 94, the amount of cash withdrawn;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of section 94, the amount of cash received on encashment of term deposit or deposits.

Collection and
recovery of
banking cash
transaction
tax.

97. (1) Every scheduled bank shall collect the banking cash transaction tax from every person, being a person referred to in clause (i) or clause (ii) of sub-section (2) of section 95 who enters into a taxable banking transaction with that bank, at the rate specified in section 95.

(2) The banking cash transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every scheduled bank to the credit of the Central Government by the fifteenth day of the month immediately following the said calendar month.

(3) Any scheduled bank, who fails to collect the tax in accordance with the provisions of sub-section (1), shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

Scheduled
bank to
furnish
prescribed
return.

98. (1) Every scheduled bank (hereafter in this Chapter referred to as assessee) shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form and verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable banking transactions entered into during such financial year in the scheduled bank.

(2) Where any assessee fails to furnish the return under sub-section (1) within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(3) Any assessee who has not furnished the return within the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2), discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

99. (1) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under sub-section (1) or sub-section (3) of section 98 or upon whom a notice has been served under sub-section (2) of section 98 (whether a return has been furnished or not), a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any

other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable banking transactions during the relevant financial year and determine the amount of banking cash transaction tax payable or refundable on the basis of such assessment:

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(3) Every assessee, in case any amount is refunded to it on assessment under sub-section (2), shall, within such time as may be prescribed, refund such amount to the concerned person from whom such amount was collected.

100. (1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed.

Rectification
of mistake.

(2) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (1), the Assessing Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Assessing Officer may—

(a) make an amendment under sub-section (1) of his own motion; or

(b) make such amendment if any mistake is brought to his notice by the assessee.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Assessing Officer.

(6) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund, which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

101. Every assessee who fails to credit the banking cash transaction tax or any part thereof as required under section 97, to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

Interest on
delayed
payment of
banking cash
transaction tax.

102. Any assessee who—

(a) fails to collect the whole or any part of the banking cash transaction tax as required under section 97; or

(b) having collected the banking cash transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of section 97,

shall be liable to pay,—

Penalty for
failure to
collect or pay
banking cash
transaction
tax.

(i) in the case referred to in clause (a), in addition to paying the tax in accordance with the provisions of sub-section (3) of section 97, or interest, if any, in accordance with the provisions of section 101, by way of penalty, a sum equal to the amount of banking cash transaction tax that it failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying the tax in accordance with the provisions of sub-section (2) of section 97 and interest in accordance with the

provisions of section 101, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of banking cash transaction tax that it failed to pay.

Penalty for failure to furnish prescribed return.

103. If an assessee fails to furnish in due time the return which it is required to furnish under sub-section (1) of section 98 or by notice given under sub-section (2) of that section, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

Penalty for failure to comply with notice.

104. If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section (1) of section 99, he may direct that such person shall pay, by way of penalty, in addition to any banking cash transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each such failure.

Penalty not to be imposed in certain cases.

105. Notwithstanding anything contained in the provisions of section 102 or section 103 or section 104, no penalty shall be imposed for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure:

Provided that no order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

Application of certain provisions of Act 43 of 1961.

106. The provisions of the following sections of the Income-tax Act, 1961, as in force from time to time, shall apply, so far as may be, in relation to banking cash transaction tax as they apply in relation to income-tax:—

120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293.

Appeals to Commissioner of Income-tax (Appeals).

107. (1) Any assessee aggrieved by any assessment order passed by the Assessing Officer under section 99 or any order under section 100, or denying his liability to be assessed under this Chapter, or by an order levying penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(2) Every appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under the provisions of sub-section (1), the provisions of sections 249 to 251 of the Income-tax Act, 1961, shall, as far as may be, apply.

43 of 1961.

Appeals to Appellate Tribunal.

108. (1) Any assessee aggrieved by an order passed by a Commissioner of Income-tax (Appeals) under section 107 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 107, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income-tax, as the case may be.

(4) Every appeal under sub-section (1) or sub-section (2) shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal filed under sub-section (1) shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of sections 252 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply.

43 of 1961.

False statement in verification, etc.

109. (1) If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

110. A person shall not be proceeded against for any offence under section 109 except with the previous sanction of the Chief Commissioner of Income-tax.

111. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which the return shall be delivered or caused to be delivered to the Assessing Officer or to any other agency and the form and the manner in which such return shall be furnished under sub-section (1) or sub-section (2) of section 98;

(b) the time within which the return shall be furnished on receipt of notice under sub-section (2) of section 98;

(c) the time within which refund shall be made under sub-section (3) of section 99;

(d) the form in which an appeal under section 107 or section 108 may be filed and the manner in which they may be verified;

(e) any other matter which by this Chapter is to be, or may be, prescribed.

(3) Every rule made under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

112. (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER VIII

MISCELLANEOUS

113. In section 3 of the Government Savings Banks Act, 1873, in the definition of "depositor", the following proviso shall be inserted, namely:—

'Provided that on and after the date on which the Finance Bill, 2005 receives the assent of the President, the provisions of this clause shall have effect as if for the words "a person", the words "an individual" had been substituted.'

114. After section 8A of the Indian Stamp Act, 1899, the following section shall be inserted, namely:—

'8B. Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) a scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or

Institution of proceedings.

Power to make rules.

Power to remove difficulties.

Amendment of Act 5 of 1873.

Insertion of new section 8B in Act 2 of 1899.

Corporatisation and demutualisation schemes and related instruments not liable to duty.

(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant to a scheme,

as approved by the Securities and Exchange Board of India under sub-section (2) of section 4B of the Securities Contracts (Regulation) Act, 1956, shall not be liable to duty under this Act or any other law for the time being in force.

42 of 1955.

Explanation.—For the purposes of this section,—

(a) the expressions "corporatisation", "demutualisation" and "scheme" shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42, of 1956.

(b) "Securities and Exchange Board of India" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992.

15 of 1992.

Amendment
of section 2
of Act 49 of
1950.

115. Section 2 of the Contingency Fund of India Act, 1950 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) On and from the date on which the Finance Bill, 2005 receives the assent of the President, the sum which shall be paid from and out of the Consolidated Fund of India into the Contingency Fund of India under sub-section (1) shall stand enhanced to five hundred crores of rupees."

Substitution
of new Sched-
ule for First
Schedule to
Act 58 of 1957.

116. For the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Schedule specified in the Tenth Schedule shall be substituted.

Amendment
of section 2
of Act 46 of
1959.

117. In section 2 of the Government Savings Certificates Act, 1959, for clause (a), the following clauses shall be substituted, namely:—

(a) "holder", in relation to a savings certificate, means—

(i) a person who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time before the date on which the Finance Bill, 2005 receives the assent of the President; and

(ii) an individual who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time on or after the date on which the Finance Bill, 2005 receives the assent of the President;

(aa) "minor" means a person who is not deemed to have attained his majority under the Majority Act, 1875.

9 of 1875.

Substitution of
new Schedule
for Schedule to
Act 40 of
1978.

118. For the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, the Schedule specified in the Eleventh Schedule shall be substituted.

Amendment
of Second
Schedule to
Act 21 of
1998.

119. In the Finance (No. 2) Act, 1998, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litre" shall be substituted.

Amendment
of Second
Schedule to
Act 27 of
1999.

120. In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litre" shall be substituted.

Amendment
of section 10
of Act 54 of
2000.

121. Section 10 of the Central Road Fund Act, 2000 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

21 of 1998.

27 of 1999.

"(2) Notwithstanding anything contained in clause (viii) of sub-section (1), the Central Government shall, with effect from the 1st day of March, 2005, allocate fifty paise from the amount of rupee two as amended by sections 119 and 120 of the Finance Act, 2005 as the additional duty of customs and the additional duty of excise on petrol, levied under sub-section (1) of section 103 and sub-section (1) of section 111, as the case may be, of the Finance (No. 2) Act, 1998 and the additional duty of customs and the additional duty of excise on high speed diesel oil levied under sub-section (1) of section 116 and sub-section (1) of section 133, as the case may be, of the Finance Act, 1999, exclusively for the development and maintenance of national highways."

122. For the Seventh Schedule to the Finance Act, 2001, the Schedule specified in the Twelfth Schedule shall be substituted.

Substitution of new Schedule for Seventh Schedule to Act 14 of 2001.

123. In the Finance Act, 2003,—

Amendment of Act 32 of 2003.

(a) section 128 shall be omitted;

(b) in section 134, the *Explanation* shall be omitted;

(c) section 157 shall be omitted;

(d) in section 169, the portion beginning with the words "and the amendment so made" and ending with the words "repealed by a Central Act" shall be omitted with effect from the 31st day of March, 2005;

(e) the Fourth Schedule shall be omitted.

124. In the Finance (No. 2) Act, 2004,—

Amendment of Act 23 of 2004.

(a) in section 88, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (4), the following procedure shall be followed for the recovery of the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 which has been availed but which would not have been availed if the amendment made by sub-section (1) was in force at all material times (hereinafter referred to in this section as the amount of credit), namely:—

58 of 1957.

(i) the Central Excise Officer shall, on or before the 25th day of May, 2005, serve notice on the person from whom the recovery is to be made (hereinafter referred to as the assessee), requiring the assessee to declare the amount of credit utilised by him on different dates for payment of duty of excise (hereinafter referred to as the CENVAT duty) leviable under the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985;

5 of 1986.

(ii) the assessee shall furnish the declaration as required under clause (i) on or before the 31st day of May, 2005;

(iii) the Central Excise Officer shall, after considering the declaration made by the assessee under clause (ii), determine the amount of credit utilised on different dates for payment of CENVAT duty;

(iv) the Central Excise Officer shall separately determine the amount of interest on the amount of credit (hereinafter referred to as the amount of interest) utilised for paying the CENVAT duty, in accordance with the provisions of clause (v);

(v) the amount of interest on amount of credit utilised for paying the CENVAT duty shall be at a rate of thirteen per cent. per annum for the period beginning on and from the day when each time the amount of credit was so utilised and ending on the 10th day of September, 2004;

(vi) the Central Excise Officer shall, on or before the 15th day of June, 2005, inform the assessee, in writing, the amount of credit and the amount of interest so determined under clauses (iii) and (iv);

(vii) the assessee shall pay an amount equal to one-thirty sixth part of each of the amount determined under clauses (iii) and (iv) by the fifth day of every month, commencing from the month, following the month of receipt of information of the amount determined by the Central Excise Officer;

(viii) the assessee may make payment on his own towards the amount of credit or, as the case may be, the amount of interest, in excess of the amount required to be paid up to a particular month;

(ix) where the assessee pays the total amount of credit and the amount of interest so determined under clauses (iii) and (iv), respectively, the Central Excise Officer shall issue an order confirming the payment of credit and the amount of interest and discharging the assessee from any recovery of the amount of credit;

(x) for the purposes of this sub-section, it is hereby clarified that the amount of credit has been fully utilised first towards payment of the CENVAT duty before utilising the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 paid on or after the 1st day of April, 2000 for payment of the CENVAT duty.

(6) Where the assessee fails to furnish the declaration as required under clause (i), or has furnished the declaration but failed to pay the amount by the day as specified in clause (vii), of sub-section (5), the provisions of sub-section (4) shall apply subject to the modification that the notice, requiring the assessee to show cause why he should not pay the amount specified in the notice, shall be served upon him within three months from the date of his such failure.";

(b) in section 94, in sub-section (1), clause (a) shall be re-lettered as clause (aa) thereof, and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

"(a) the additional duty referred to in sub-section (5) of section 3 of the Customs Tariff Act, 1975;"

(c) in section 98, in the Table, with effect from the 1st day of June, 2005,—

(i) against Sl. No. 1, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(ii) against Sl. No. 2, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(iii) against Sl. No. 3, under column (3) relating to rate, for the figures and words "0.015 per cent.", the figures and words "0.02 per cent." shall be substituted;

(iv) against Sl. No. 4, under column (3) relating to rate, for the figures and words "0.01 per cent.", the figures and words "0.0133 per cent." shall be substituted;

(v) against Sl. No. 5, under column (3) relating to rate, for the figures and words "0.15 per cent.", the figures and words "0.2 per cent." shall be substituted.

58 of 1957.

51 of 1975.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | Nil; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

Provided that in case of persons mentioned in item (i) above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

35 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(C) on income by way of winnings from horse races	30 per cent.;
(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(E) on the whole of the other income	30 per cent.
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;

(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(viii) on any other income	40 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(A) item 1, of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(ii) in the case of every firm and artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every domestic company at the rate of ten per cent. of such income tax;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent. of such income-tax.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,00,000 | Nil; |
| (2) where the total income exceeds Rs. 1,00,000 but does not exceed Rs. 1,50,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,00,000; |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 5,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000; |
| (4) where the total income exceeds Rs. 2,50,000 | Rs. 25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,35,000 | Nil; |
| (2) where the total income exceeds Rs. 1,35,000 but does not exceed Rs. 1,50,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,35,000; |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 1,500 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000; |
| (4) where the total income exceeds Rs. 2,50,000 | Rs. 21,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 1,85,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 1,85,000 but does not exceed Rs. 2,50,000 | 20 per cent. of the amount by which the total income exceeds Rs. 1,85,000; |
| (3) where the total income exceeds Rs. 2,50,000 | Rs. 13,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 111A or section 112 shall, —

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph B

In the case of every co-operative society, —

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern

after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent.

PART IV

[See section 2(12)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly;

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income :

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2005, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2005.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2006, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income

of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2006.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this Rule, no loss which has not been determined by the Assessing Officer under the provisions of these Rules or the Rules contained in Part IV of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 74)

PART I

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 6, for the entry in column (4) occurring against all the tariff items of heading 0603, the entry "60%" shall be substituted;

(2) in Chapter 25,—

(i) for the entry in column (4) occurring against all the tariff items of all the headings (except headings 2504 and 2510), the entry "15%" shall be substituted;

(ii) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2504, the entries "15%" and "15%" shall respectively be substituted;

(3) in Chapter 26, in tariff items 2620 11 00, 2620 19 00, 2620 30 10 and 2620 30 90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(4) in Chapter 27,—

(i) for the entry in column (4) occurring against all the tariff items of heading 2701 (except tariff items 2701 1200, 2701 20 10 and 2701 20 90), the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against the tariff item 2705 00 00, the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of headings 2706, 2707 and 2708, the entry "15%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of heading 2710, the entry "15%" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of headings 2712 and 2713, the entry "15%" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of heading 2715, the entry "15%" shall be substituted.

(5) In Chapter 28, for the entry in column (4) occurring against all the tariff items (except tariff items 2801 20 00, 2812 10 10, 2812 10 21, 2812 10 22, 2812 10 41, 2812 10 42, 2812 10 43, 2812 10 47, 2812 10 60, 2814 10 00, 2814 20 00, 2845 10 00, 2851 00 91 and 2851 00 99), the entry "15%" shall be substituted.

(6) in Chapter 29,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff items 2901 10 00, 2901 21 00, 2901 22 00, 2901 23 00, 2901 24 00, 2901 29 10, 2901 29 20, 2901 29 90, 2902 11 00, 2902 19 00, 2902 20 00, 2902 30 00, 2902 41 00, 2902 42 00, 2902 43 00, 2902 44 00, 2902 50 00, 2902 60 00, 2902 70 00, 2902 90 10, 2902 90 20, 2902 90 30, 2902 90 40, 2902 90 50, 2902 90 90, 2903 15 00, 2903 21 00, 2903 30 11, 2903 30 19, 2904 90 80, 2905 19 10, 2905 19 90, 2905 43 00, 2905 44 00, 2918 19 10, 2918 19 90, 2920 10 10, 2920 10 20, 2920 90 41, 2920 90 42, 2920 90 43, 2920 90 44, 2920 90 45, 2920 90 47, 2920 90 48, 2920 90 51, 2920 90 52, 2920 90 53, 2920 90 54, 2920 90 55, 2920 90 56, 2920 90 57, 2920 90 58, 2920 90 61, 2920 90 62, 2920 90 63, 2920 90 64, 2920 90 65, 2920 90 66, 2920 90 99, 2921 19 11, 2921 19 14, 2921 19 90, 2922 11 11, 2922 11 12, 2922 11 13, 2922 11 14, 2922 11 15, 2922 11 16, 2922 11 90, 2922 12 11, 2922 12 12, 2922 12 90, 2922 19 10, 2922 19 20, 2922 19 30, 2922 19 90, 2926 10 00, 2930 90 91, 2930 90 99, 2933 39 30, 2936 10 00, 2936 21 00, 2936 22 10, 2936 22 90, 2936 23 10, 2936 23 90, 2936 24 00, 2936 25 00, 2936 26 10, 2936 26 90, 2936 27 00, 2936 28 00, 2936 29 10, 2936 29 20, 2936 29 30, 2936 29 40, 2936 29 50, 2936 29 90, 2936 90 00, 2937 11 00, 2937 12 00, 2937 19 00, 2937 21 00, 2937 22 00, 2937 23 00, 2937 29 00, 2937 31 00, 2937 39 00, 2937 40 00, 2937 50 00, 2937 90 00, 2939 29 10, 2939 29 90, 2939 41 10, 2939 41 20, 2939 41 90, 2939 42 00, 2939 43 00, 2939 49 00, 2939 51 00, 2939 59 00, 2941 10 10, 2941 10 20, 2941 10 30, 2941 10 40, 2941 10 50, 2941 10 90, 2941 20 10, 2941 20 90, 2941 30 10, 2941 30 20, 2941 30 90, 2941 40 00, 2941 50 00, 2941 90 11, 2941 90 12, 2941 90 13, 2941 90 14, 2941 90 19, 2941 90 20, 2941 90 30, 2941 90 40, 2941 90 50, 2941 90 60 and 2941 90 90), the entry "15%" shall be substituted;

(ii) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2936, the entries "15%" and "15%" shall respectively be substituted;

(iii) in tariff items 2937 11 00, 2937 12 00, 2937 19 00, 2937 21 00, 2937 22 00, 2937 23 00, 2937 29 00, 2937 31 00, 2937 39 00, 2937 40 00, 2937 50 00, 2939 41 10, 2939 41 20, 2939 41 90, 2939 42 00, 2939 43 00,

2939 49 00, 2939 51 00 and 2939 59 00, for the entries in column (4) and column (5) occurring against each of them, the entries "15%" and "15%" shall respectively be substituted;

(iv) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2941, the entries "15%" and "15%" shall respectively be substituted;

(7) in Chapter 30,—

(i) for the entries in column (4) and column (5) occurring against all the tariff items (except tariff items of headings 3005 and 3006), the entries "15%" and "15%" shall respectively be substituted;

(ii) in tariff items 3005 10 10, 3005 10 20, 3005 10 90, 3005 90 10, 3005 90 20, 3005 90 30, 3005 90 40, 3005 90 50, 3005 90 60, 3005 90 70, 3005 90 90, 3006 10 10, 3006 10 20, 3006 20 00, 3006 30 00, 3006 40 00, 3006 50 00, 3006 70 00 and 3006 80 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(8) in Chapter 31, for the entry in column (4) occurring against all the tariff items (except tariff items 3102 21 00, 3102 50 00, 3104 30 00, 3105 20 00, 3105 30 00, 3105 40 00, 3105 51 00, 3105 59 00, 3105 60 00, 3105 90 10 and 3105 90 90), the entry "15%" shall be substituted;

(9) in Chapter 32, for the entry in column (4) occurring against all the tariff items (except all the tariff item of heading 3201), the entry "15%" shall be substituted;

(10) in Chapter 33,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff items 3301 11 00, 3301 12 00, 3301 13 00, 3301 14 00, 3301 19 10, 3301 19 90, 3301 21 00, 3301 22 10, 3301 22 90, 3301 23 00, 3301 24 00, 3301 25 10, 3301 25 20, 3301 25 30, 3301 25 40, 3301 25 90, 3301 26 00, 3301 29 11, 3301 29 12, 3301 29 13, 3301 29 14, 3301 29 15, 3301 29 16, 3301 29 17, 3301 29 18, 3301 29 21, 3301 29 22, 3301 29 23, 3301 29 24, 3301 29 25, 3301 29 26, 3301 29 27, 3301 29 28, 3301 29 31, 3301 29 32, 3301 29 33, 3301 29 34, 3301 29 35, 3301 29 36, 3301 29 37, 3301 29 38, 3301 29 41, 3301 29 42, 3301 29 43, 3301 29 44, 3301 29 45, 3301 29 46, 3301 29 47, 3301 29 48, 3301 29 49, 3301 29 50, 3301 29 90, 3301 30 10, 3301 30 91, 3301 30 99, 3301 90 11, 3301 90 12, 3301 90 13, 3301 90 14, 3301 90 15, 3301 90 16, 3301 90 17, 3301 90 21, 3301 90 22, 3301 90 23, 3301 90 24, 3301 90 25, 3301 90 29, 3301 90 31, 3301 90 32, 3301 90 33, 3301 90 41, 3301 90 49, 3301 90 51, 3301 90 59, 3301 90 60, 3301 90 71, 3301 90 79, 3301 90 90, 3302 10 10 and 3302 10 90), the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of sub-heading 3302 10, the entry "100%" shall be substituted;

(11) in Chapter 34,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff items 3402 11 10, 3402 11 90, 3402 12 00, 3402 13 00 and 3402 19 00), the entry "15%" shall be substituted;

(ii) in tariff items 3402 11 10, 3402 11 90, 3402 12 00, 3402 13 00 and 3402 19 00, for the entries in column (4) and column (5) occurring against each of them, the entries "15%" and "15%" shall respectively be substituted;

(12) in Chapter 35, for the entry in column (4) occurring against all the tariff items (except tariff items 3501 10 00, 3501 90 00, 3502 11 00, 3502 19 00, 3502 20 00, 3502 90 00, 3503 00 10, 3503 00 20, 3503 00 30, 3503 00 90, 3504 00 10, 3504 00 91, 3504 00 99, 3505 10 10, 3505 10 90 and 3505 20 00), the entry "15%" shall be substituted;

(13) in Chapter 36, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(14) in Chapter 37, for the entry in column (4) occurring against all the tariff items (except tariff items 3701 20 00 and 3702 20 00), the entry "15%" shall be substituted;

(15) in Chapter 38,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff items 3801 10 00, 3802 10 00, 3809 10 00, 3812 10 00, 3818 00 10, 3818 00 90, 3823 11 11, 3823 11 12, 3823 11 19, 3823 11 90, 3823 12 00, 3823 13 00, 3823 19 00, 3823 70 10, 3823 70 20, 3823 70 30, 3823 70 40, 3823 70 90, 3824 60 10 and 3824 60 90), the entry "15%" shall be substituted;

(ii) in tariff items 3801 10 00, 3802 10 00 and 3812 10 00, for the entries in column (4) and column (5) occurring against each of them, the entries "15%" and "15%" shall respectively be substituted;

(16) in Chapter 39, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(17) in Chapter 40, for the entry in column (4) occurring against all the tariff items (except, tariff items 4001 10 10, 4001 10 20, 4001 21 00, 4001 22 00, 4001 29 10, 4001 29 20, 4001 29 30, 4001 29 40, 4001 29 90 and 4011 30 00), the entry "15%" shall be substituted;

(18) in Chapter 41, for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 4101, 4102 and 4103), the entry "15%" shall be substituted;

(19) in Chapter 42, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(20) in Chapter 43, for the entry in column (4) occurring against all the tariff items of headings 4303 and 4304, the entry "15%" shall be substituted;

(21) in Chapter 44, for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 4401, 4402 and 4403), the entry "15%" shall be substituted;

(22) in Chapter 45, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(23) in Chapter 46, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(24) in Chapter 48, for the entry in column (4) occurring against all the tariff items (except tariff items 4801 00 10 and 4801 00 90), the entry "15%" shall be substituted;

(25) in Chapter 49, for the entry in column (4) occurring against all the tariff items (except tariff items 4902 10 10, 4902 10 20, 4902 90 10, 4902 90 20, 4904 00 00, 4905 10 00, 4905 91 00, 4905 99 10 and 4905 99 90), the entry "15%" shall be substituted;

(26) in Chapter 50, for the entry in column (4) occurring against all the tariff items of headings 5004, 5005, 5006 and 5007, the entry "15%" shall be substituted;

(27) in Chapter 51,—

(i) in tariff items 5105 10 00, 5105 21 00, 5105 29 90, 5105 31 00, 5105 39 00 and 5105 40 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of headings 5106, 5107, 5108, 5109 and 5110, the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 11, the entry "15% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 19, the entry "15% or Rs. 150 per sq. metre, whichever is higher" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 20, the entry "15% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 30, the entry "15% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 90, the entry "15% or Rs. 90 per sq. metre, whichever is higher" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 11, the entry "15% or Rs. 125 per sq. metre, whichever is higher" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 19, the entry "15% or Rs. 155 per sq. metre, whichever is higher" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 20, the entry "15% or Rs. 85 per sq. metre, whichever is higher" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 30, the entry "15% or Rs. 110 per sq. metre, whichever is higher" shall be substituted;

(xii) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 90, the entry "15% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items, of heading 5113, the entry "15% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(28) in Chapter 52,—

(i) for the entry in column (4) occurring against all the tariff items of headings 5204, 5205, 5206 and 5207, the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of sub-headings 5208 11, 5208 12, 5208 13, 5208 19, 5208 21, 5208 22, 5208 23, 5208 29, 5208 31, 5208 32 and 5208 33, the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 39, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 41, the entry "15% or Rs. 9 per sq. metre, whichever is higher" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 42, the entry "15% or Rs. 37 per sq. metre, whichever is higher" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 43, the entry "15%" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 49, the entry "15% or Rs. 200 per kg., whichever is higher" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 51, the entry "15% or Rs. 27 per sq. metre, whichever is higher" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 52, the entry "15% or Rs. 23 per sq. metre, whichever is higher" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 53, the entry "15% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 59, the entry "15% or Rs. 50 per sq. metre, whichever is higher" shall be substituted;

(xii) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 11 and 5209 12, the entry "15%" shall be substituted;

(xiii) in tariff item 5209 19 00, for the entry in column (4), the entry "15%" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 21, 5209 22 and 5209 29, the entry "15%" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 31, 5209 32 and 5209 39, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 41, the entry "15% or Rs. 32 per sq. metre, whichever is higher" shall be substituted;

(xvii) in tariff item 5209 42 00, for the entry in column (4), the entry "15% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(xviii) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 43, the entry "15% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(xix) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 49, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xx) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 51 and 5209 52, the entry "15% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 59, the entry "15% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(xxii) for the entry in column (4) occurring against all the tariff items of sub-headings 5210 11 and 5210 12, the entry "15%" shall be substituted;

(xxiii) in tariff item 5210 19 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-headings 5210 21, 5210 22, 5210 29, 5210 31 and 5210 32, the entry "15%" shall be substituted;

(xxv) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 39, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 41, the entry "15% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(xxvii) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 42, the entry "15% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(xxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 49, the entry "15% or Rs. 185 per kg., whichever is higher" shall be substituted;

(xxix) for the entry in column (4) occurring against all the tariff items of sub-headings 5210 51, 5210 52 and 5210 59, the entry "15% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(xxx) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 11 and 5211 12, the entry "15%" shall be substituted;

(xxxi) in tariff item 5211 19 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxxii) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 21, 5211 22 and 5211 29, the entry "15%" shall be substituted;

(xxxiii) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 31, 5211 32 and 5211 39, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xxxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 41, the entry "15% or Rs. 44 per sq. metre, whichever is higher" shall be substituted;

(xxxv) in tariff item 5211 42 00, for the entry in column (4), the entry "15% or Rs. 18 per sq. metre, whichever is higher" shall be substituted;

(xxxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 43, the entry "15% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(xxxvii) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 49, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xxxviii) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 51, 5211 52 and 5211 59, the entry "15% or Rs. 18 per sq. metre, whichever is higher" shall be substituted;

(xxxix) in tariff items 5212 11 00, 5212 12 00, 5212 13 00 and 5212 14 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xl) in tariff item 5212 15 00, for the entry in column (4), the entry "15% or Rs. 165 per kg., whichever is higher" shall be substituted;

(xli) in tariff items 5212 21 00, 5212 22 00 and 5212 23 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xlii) in tariff item 5212 24 00, for the entry in column (4), the entry "15% or Rs. 20 per sq. metre, whichever is higher" shall be substituted;

(xliii) in tariff item 5212 25 00, for the entry in column (4), the entry "15% or Rs. 165 per kg., whichever is higher" shall be substituted;

(29) in Chapter 53, for the entry in column (4) occurring against all the tariff items (except tariff items 5301 10 00, 5301 21 00, 5301 29 00, 5301 30 00, 5302 10 00 and 5302 90 00), the entry "15%" shall be substituted;

(30) in Chapter 54,—

(i) for the entry in column (4) occurring against all the tariff items of headings 5401, 5402, 5403 and 5404, the entry "15%" shall be substituted;

(ii) in tariff item 5405 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of heading 5406, the entry "15%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 10, the entry "15% or Rs. 115 per kg., whichever is higher" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of sub-headings 5407 20 and 5407 30, the entry "15%" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 41, the entry "15% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 42, the entry "15% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(viii) in tariff item 5407 43 00, for the entry in column (4), the entry "15% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 44, the entry "15% or Rs. 58 per sq. metre, whichever is higher" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 51, the entry "15% or Rs. 11 per sq. metre, whichever is higher" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 52, the entry "15% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(xii) in tariff item 5407 53 00, for the entry in column (4), the entry "15% or Rs. 50 per sq. metre, whichever is higher" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 54, the entry "15% or Rs. 20 per sq. metre, whichever is higher" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 61, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xv) in tariff item 5407 69 00, for the entry in column (4), the entry "15% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 71, the entry "15% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(xvii) in tariff item 5407 72 00, for the entry in column (4), the entry "15% or Rs. 24 per sq. metre, whichever is higher" shall be substituted;

(xviii) in tariff item 5407 73 00, for the entry in column (4), the entry "15% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(xix) in tariff item 5407 74 00, for the entry in column (4), the entry "15% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(xx) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 81, the entry "15% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 82, the entry "15% or Rs. 42 per sq. metre, whichever is higher" shall be substituted;

(xxii) in tariff item 5407 83 00, for the entry in column (4), the entry "15% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(xxiii) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 84, the entry "15% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 91, the entry "15% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(xxv) in tariff item 5407 92 00, for the entry in column (4), the entry "15% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(xxvi) in tariff item 5407 93 00, for the entry in column (4), the entry "15% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(xxvii) in tariff item 5407 94 00, for the entry in column (4), the entry "15% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(xxviii) in tariff item 5408 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxix) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 21, the entry "15%" shall be substituted;

(xxx) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 22, the entry "15% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(xxxi) in tariff item 5408 23 00, for the entry in column (4), the entry "15% or Rs. 47 per sq. metre, whichever is higher" shall be substituted;

(xxxii) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 24, the entry "15% or Rs. 87 per sq. metre, whichever is higher" shall be substituted;

(xxxiii) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 31, the entry "15% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(xxxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 32, the entry "15% or Rs. 44 per sq. metre, whichever is higher" shall be substituted;

(xxxv) in tariff item 5408 33 00, for the entry in column (4), the entry "15% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(xxxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 34, the entry "15% or Rs. 11 per sq. metre, whichever is higher" shall be substituted;

(37) In Chapter 55,—

(i) for the entry in column (4) occurring against all the tariff items of headings 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5508, 5509 and 5510, the entry "15%" shall be substituted;

(ii) in tariff items 5511 10 00 and 5511 20 00, for the entry in column (4) against each of them, the entry "15% or Rs. 31 per kg., whichever is higher" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 5511 30, the entry "15% or Rs. 30 per kg., whichever is higher" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 11, the entry "15%" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 19, the entry "15% or Rs. 42 per sq. metre, whichever is higher" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 21, the entry "15%" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 29, the entry "15% or Rs. 47 per sq. metre, whichever is higher" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 91, the entry "15%" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 99, the entry "15% or Rs. 65 per kg., whichever is higher" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-headings 5513 11, 5513 12, 5513 13 and 5513 19, the entry "15%" shall be substituted;

(xi) in tariff items 5513 21 00 and 5513 22 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xii) in tariff item 5513 23 00, for the entry in column (4), the entry "15% or Rs. 125 per kg. or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(xiii) in tariff item 5513 29 00, for the entry in column (4), the entry "15% or Rs. 185 per kg., whichever is higher" shall be substituted;

(xiv) in tariff item 5513 31 00, for the entry in column (4), the entry "15% or Rs. 21 per sq. metre, whichever is higher" shall be substituted;

(xv) in tariff item 5513 32 00, for the entry in column (4), the entry "15% or Rs. 170 per kg., whichever is higher" shall be substituted;

(xvi) in tariff item 5513 33 00, for the entry in column (4), the entry "15% or Rs. 22 per sq. metre, whichever is higher" shall be substituted;

(xvii) in tariff item 5513 39 00, for the entry in column (4), the entry "15% or Rs. 125 per kg. or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(xviii) in tariff item 5513 41 00, for the entry in column (4), the entry "15% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(xix) in tariff item 5513 42 00, for the entry in column (4), the entry "15% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(xx) in tariff item 5513 43 00, for the entry in column (4), the entry "15% or Rs. 20 per sq. metre, whichever is higher" shall be substituted;

(xxi) in tariff item 5513 49 00, for the entry in column (4), the entry "15% or Rs. 185 per kg., whichever is higher" shall be substituted;

(xxii) for the entry in column (4) occurring against all the tariff items of sub-headings 5514 11, 5514 12, 5514 13 and 5514 19, the entry "15%" shall be substituted;

(xxiii) in tariff item 5514 21 00, for the entry in column (4), the entry "15% or Rs. 100 per kg. or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(xxiv) in tariff item 5514 22 00, for the entry in column (4), the entry "15% or Rs. 140 per kg., whichever is higher" shall be substituted;

(xxv) in tariff item 5514 23 00, for the entry in column (4), the entry "15% or Rs. 160 per kg., whichever is higher" shall be substituted;

(xxvi) in tariff item 5514 29 00, for the entry in column (4), the entry "15% or Rs. 170 per kg., whichever is higher" shall be substituted;

(xxvii) in tariff item 5514 31 00, for the entry in column (4), the entry "15% or Rs. 64 per sq. metre, whichever is higher" shall be substituted;

(xxviii) in tariff item 5514 32 00, for the entry in column (4), the entry "15% or Rs. 43 per sq. metre, whichever is higher" shall be substituted;

(xxix) in tariff item 5514 33 00, for the entry in column (4), the entry "15% or Rs. 180 per kg., whichever is higher" shall be substituted;

(xxx) in tariff item 5514 39 00, for the entry in column (4), the entry "15% or Rs. 31 per sq. metre, whichever is higher" shall be substituted;

(xxxi) in tariff item 5514 41 00, for the entry in column (4), the entry "15% or Rs. 26 per sq. metre, whichever is higher" shall be substituted;

(xxxii) in tariff item 5514 42 00, for the entry in column (4), the entry "15% or Rs. 140 per kg., whichever is higher" shall be substituted;

(xxxiii) in tariff item 5514 43 00, for the entry in column (4), the entry "15% or Rs. 31 per sq. metre, whichever is higher" shall be substituted;

(xxxiv) in tariff item 5514 49 00, for the entry in column (4), the entry "15% or Rs. 160 per kg., whichever is higher" shall be substituted;

(xxxv) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 11, the entry "15% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(xxxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 12, the entry "15% or Rs. 95 per kg., whichever is higher" shall be substituted;

(xxxvii) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 13, the entry "15% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(xxxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 19, the entry "15% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(xxxix) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 21, the entry "15% or Rs. 79 per sq. metre, whichever is higher" shall be substituted;

(xl) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 22, the entry "15% or Rs. 140 per kg., whichever is higher" shall be substituted;

(xli) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 29, the entry "15% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(xlii) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 91, the entry "15% or Rs. 57 per sq. metre, whichever is higher" shall be substituted;

(xliii) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 92, the entry "15% or Rs. 55 per sq. metre, whichever is higher" shall be substituted;

(xliv) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 99, the entry "15% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(xlv) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 11, the entry "15%" shall be substituted;

(xlvi) in tariff item 5516 12 00, for the entry in column (4), the entry "15% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(xlvii) in tariff item 5516 13 00, for the entry in column (4), the entry "15% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(xlviii) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 14, the entry "15% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(xlix) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 21, the entry "15%" shall be substituted;

(l) in tariff items 5516 22 00 and 5516 23 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(li) in tariff item 5516 24 00, for the entry in column (4), the entry "15% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(lii) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 31, the entry "15%" shall be substituted;

(liii) in tariff items 5516 32 00, 5516 33 00 and 5516 34 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(liv) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 41, the entry "15%" shall be substituted;

(lv) in tariff items 5516 42 00, for the entry in column (4), the entry "15%" shall be substituted;

(lvi) in tariff items 5516 43 00 and 5516 44 00, for the entry in column (4), occurring against each of them, the entry "15% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(lvii) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 91, the entry "15%" shall be substituted;

(lviii) in tariff item 5516 92 00, for the entry in column (4), the entry "15%" shall be substituted;

(lix) in tariff item 5516 93 00, for the entry in column (4), the entry "15% or Rs. 21 per sq. metre, whichever is higher" shall be substituted;

(lx) in tariff item 5516 94 00, for the entry in column (4), the entry "15% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(32) in Chapter 56, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(33) in Chapter 57,—

(i) for the entry in column (4) occurring against all the tariff items of heading 5701, the entry "15%" shall be substituted;

(ii) in tariff item 5702 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 20 and 5702 31, the entry "15%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 32, the entry "15% or Rs. 105 per sq. metre, whichever is higher" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of sub-headings, 5702 39 and 5702 41, the entry "15%" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 42, the entry "15% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-headings, 5702 49 and 5702 51, the entry "15%" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 52, the entry "15% or Rs. 105 per sq. metre, whichever is higher" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 59 and 5702 91, the entry "15%" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 92, the entry "15% or Rs. 110 per sq. metre, whichever is higher" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 99 and 5703 10, the entry "15%" shall be substituted;

(xii) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 20, the entry "15% or Rs. 70 per sq. metre, whichever is higher" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 30, the entry "15% or Rs. 55 per sq. metre, whichever is higher" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 90, the entry "15%" shall be substituted;

(xv) in tariff item 5704 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5704 90, the entry "15% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(xvii) for the entry in column (4) occurring against all the tariff items of heading 5705, the entry "15%" shall be substituted;

(34) in Chapter 58,—

(i) in tariff item 5801 10 00, for the entry in column (4), the entry "15% or Rs. 210 per sq. metre, whichever is higher" shall be substituted;

(ii) in tariff item 5801 21 00, for the entry in column (4), the entry "15% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 22, the entry "15% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(iv) in tariff item 5801 23 00, for the entry in column (4), the entry "15% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(v) in tariff item 5801 24 00, for the entry in column (4), the entry "15% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(vi) in tariff item 5801 25 00, for the entry in column (4), the entry "15% or Rs. 120 per sq. metre, whichever is higher" shall be substituted;

(vii) in tariff item 5801 26 00, for the entry in column (4), the entry "15% or Rs. 180 per sq. metre, whichever is higher" shall be substituted;

(viii) in tariff item 5801 31 00, for the entry in column (4), the entry "15% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(ix) in tariff item 5801 32 00, for the entry in column (4), the entry "15% or Rs. 180 per sq. metre, whichever is higher" shall be substituted;

(x) in tariff item 5801 33 00, for the entry in column (4), the entry "15% or Rs. 150 per sq. metre, whichever is higher" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 34, the entry "15% or Rs. 140 per sq. metre, whichever is higher" shall be substituted;

(xii) in tariff item 5801 35 00, for the entry in column (4), the entry "15% or Rs. 68 per sq. metre, whichever is higher" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 36, the entry "15% or Rs. 130 per sq. metre, whichever is higher" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 90, the entry "15% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(xv) in tariff item 5802 11 00, for the entry in column (4), the entry "15%" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-heading 5802 19, the entry "15% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(xvii) in tariff item 5802 20 00, for the entry in column (4), the entry "15%" shall be substituted;

(xviii) in tariff item 5802 30 00, for the entry in column (4), the entry "15% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xix) for the entry in column (4) occurring against all the tariff items of heading 5803, the entry "15%" shall be substituted;

(xx) for the entry in column (4) occurring against all the tariff items of heading 5804, the entry "15% or Rs. 200 per kg., whichever is higher" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of headings 5805, 5806, 5807, 5808 and 5809, the entry "15%" shall be substituted;

(xxii) in tariff item 5810 10 00, for the entry in column (4), the entry "15% or Rs. 200 per kg., whichever is higher" shall be substituted;

(xxiii) in tariff items 5810 91 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 5810 92, the entry "15%" shall be substituted;

(xxv) in tariff items 5810 99 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxvi) for the entry in column (4) occurring against all the tariff items of heading 5811, the entry "15%" shall be substituted;

(35) in Chapter 59, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(36) in Chapter 60,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff item 6001 92 00), the entry "15%" shall be substituted;

(ii) in tariff item 6001 92 00, for the entry in column (4), the entry "15% or Rs. 100 per kg. whichever is higher" shall be substituted;

(37) in Chapter 61,—

(i) for the entry in column (4) occurring against all the tariff items of sub-heading 6101 10, the entry "15% or Rs. 700 per piece, whichever is higher" shall be substituted;

(ii) in tariff item 6101 20 00, for the entry in column (4), the entry "15% or Rs. 540 per piece, whichever is higher" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 6101 30, the entry "15% or Rs. 530 per piece, whichever is higher" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 6101 90, the entry "15%" shall be substituted;

(v) in tariff item 6102 10 00, for the entry in column (4), the entry "15% or Rs. 595 per piece, whichever is higher" shall be substituted;

(vi) in tariff item 6102 20 00, for the entry in column (4), the entry "15% or Rs. 425 per piece, whichever is higher" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-heading 6102 30, the entry "15% or Rs. 475 per piece, whichever is higher" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 6102 90, the entry "15%" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of heading 6103, the entry "15%" shall be substituted;

(x) in tariff items 6104 11 00, 6104 12 00 and 6104 13 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 19, the entry "15% or Rs. 460 per piece, whichever is higher" shall be substituted;

(xii) in tariff items 6104 21 00, 6104 22 00 and 6104 23 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 29, the entry "15%" shall be substituted;

(xiv) in tariff items 6104 31 00, 6104 32 00 and 6104 33 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 39, the entry "15%" shall be substituted;

(xvi) in tariff item 6104 41 00, for the entry in column (4), the entry "15% or Rs. 255 per piece, whichever is higher" shall be substituted;

(xvii) in tariff item 6104 42 00, for the entry in column (4), the entry "15%" shall be substituted;

(xviii) in tariff items 6104 43 00 and 6104 44 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 255 per piece, whichever is higher" shall be substituted;

(xix) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 49, the entry "15% or Rs. 220 per piece, whichever is higher" shall be substituted;

(xx) in tariff items 6104 51 00, 6104 52 00 and 6104 53 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 59, the entry "15% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xxii) in tariff item 6104 61 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxiii) in tariff items 6104 62 00 and 6104 63 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 98 per piece, whichever is higher" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 69, the entry "15%" shall be substituted;

(xxv) for the entry in column (4) occurring against all the tariff items of sub-headings 6105 10 and 6105 20, the entry "15% or Rs. 83 per piece, whichever is higher" shall be substituted;

(xxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6105 90, the entry "15% or Rs. 90 per piece, whichever is higher" shall be substituted;

(xxvii) in tariff item 6106 10 00, for the entry in column (4), the entry "15% or Rs. 90 per piece, whichever is higher" shall be substituted;

(xxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6106 20, the entry "15% or Rs. 25 per piece, whichever is higher" shall be substituted;

(xxix) for the entry in column (4) occurring against all the tariff items of sub-heading 6106 90, the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xxx) in tariff item 6107 11 00, for the entry in column (4), the entry "15% or Rs. 24 per piece, whichever is higher" shall be substituted;

(xxxi) for the entry in column (4) occurring against all the tariff items of sub-heading 6107 12, the entry "15% or Rs. 30 per piece, whichever is higher" shall be substituted;

(xxxii) for the entry in column (4) occurring against all the tariff items of sub-heading 6107 19, the entry "15%" shall be substituted;

(xxxiii) in tariff item 6107 21 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxxiv) for the entry in column (4) occurring against all the tariff items of sub-headings 6107 22, 6107 29, 6107 91, 6107 92 and 6107 99, the entry "15%" shall be substituted;

(xxxv) for the entry in column (4) occurring against all the tariff items of sub-headings 6108 11 and 6108 19, the entry "15%" shall be substituted;

(xxxvi) in tariff item 6108 21 00, for the entry in column (4), the entry "15% or Rs. 25 per piece, whichever is higher" shall be substituted;

(xxxvii) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 22, the entry "15% or Rs. 25 per piece, whichever is higher" shall be substituted;

(xxxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 29, the entry "15%" shall be substituted;

(xxxix) in tariff item 6108 31 00, for the entry in column (4), the entry "15%" shall be substituted;

(xl) for the entry in column (4) occurring against all the tariff items of sub-headings 6108 32 and 6108 39, the entry "15%" shall be substituted;

(xli) in tariff item 6108 91 00, for the entry in column (4), the entry "15% or Rs. 65 per piece, whichever is higher" shall be substituted;

(xlii) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 92, the entry "15% or Rs. 60 per piece, whichever is higher" shall be substituted;

(xliii) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 99, the entry "15%" shall be substituted;

(xliv) in tariff item 6109 10 00, for the entry in column (4), the entry "15% or Rs. 45 per piece, whichever is higher" shall be substituted;

(xlv) for the entry in column (4) occurring against all the tariff items of sub-heading 6109 90, the entry "15% or Rs. 50 per piece, whichever is higher" shall be substituted;

(xlvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6110 11, the entry "15% or Rs. 275 per piece, whichever is higher" shall be substituted;

(xlvii) in tariff items 6110 12 00 and 6110 19 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 275 per piece, whichever is higher" shall be substituted;

(xlviii) in tariff item 6110 20 00, for the entry in column (4), the entry "15% or Rs. 85 per piece, whichever is higher" shall be substituted;

(xlix) for the entry in column (4) occurring against all the tariff items of sub-heading 6110 30, the entry "15% or Rs. 110 per piece, whichever is higher" shall be substituted;

(l) in tariff item 6110 90 00, for the entry in column (4), the entry "15% or Rs. 105 per piece, whichever is higher" shall be substituted;

(li) for the entry in column (4) occurring against all the tariff items of headings 6111 and 6112, the entry "15%" shall be substituted;

(lii) in tariff item 6113 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(liii) for the entry in column (4) occurring against all the tariff items of headings 6114, 6115, 6116 and 6117, the entry "15%" shall be substituted;

(38) in Chapter 62,—

(i) in tariff item 6201 11 00, for the entry in column (4), the entry "15% or Rs. 385 per piece, whichever is higher" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 12, the entry "15% or Rs. 385 per piece, whichever is higher" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 13, the entry "15% or Rs. 320 per piece, whichever is higher" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 19, the entry "15%" shall be substituted;

(v) in tariff item 6201 91 00, for the entry in column (4), the entry "15% or Rs. 220 per piece, whichever is higher" shall be substituted;

(vi) in tariff item 6201 92 00, for the entry in column (4), the entry "15% or Rs. 210 per piece, whichever is higher" shall be substituted;

(vii) in tariff item 6201 93 00, for the entry in column (4), the entry "15% or Rs. 180 per piece, whichever is higher" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 99, the entry "15%" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 11, the entry "15% or Rs. 385 per piece, whichever is higher" shall be substituted;

(x) in tariff item 6202 12 00, for the entry in column (4), the entry "15% or Rs. 210 per piece, whichever is higher" shall be substituted;

(xi) in tariff item 6202 13 00, for the entry in column (4), the entry "15% or Rs. 385 per piece, whichever is higher" shall be substituted;

(xii) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 19, the entry "15%" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 91, the entry "15% or Rs. 220 per piece, whichever is higher" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 92, the entry "15% or Rs. 160 per piece, whichever is higher" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 93, the entry "15% or Rs. 220 per piece, whichever is higher" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 99, the entry "15%" shall be substituted;

(xvii) in tariff item 6203 11 00, for the entry in column (4), the entry "15% or Rs. 1100 per piece, whichever is higher" shall be substituted;

(xviii) in tariff item 6203 12 00, for the entry in column (4), the entry "15% or Rs. 720 per piece, whichever is higher" shall be substituted;

(xix) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 19, the entry "15% or Rs. 1110 per piece, whichever is higher" shall be substituted;

(xx) in tariff items 6203 21 00, 6203 22 00, 6203 23 00 and 6203 29 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 145 per piece, whichever is higher" shall be substituted;

(xxi) in tariff item 6203 31 00, for the entry in column (4), the entry "15% or Rs. 815 per piece, whichever is higher" shall be substituted;

(xxii) in tariff item 6203 32 00, for the entry in column (4), the entry "15% or Rs. 440 per piece, whichever is higher" shall be substituted;

(xxiii) in tariff item 6203 33 00, for the entry in column (4), the entry "15% or Rs. 320 per piece, whichever is higher" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 39, the entry "15% or Rs. 755 per piece, whichever is higher" shall be substituted;

(xxv) in tariff item 6203 41 00, for the entry in column (4), the entry "15% or Rs. 285 per piece, whichever is higher" shall be substituted;

(xxvi) in tariff item 6203 42 00, for the entry in column (4), the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xxvii) in tariff item 6203 43 00, for the entry in column (4), the entry "15% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 49, the entry "15% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xxix) in tariff item 6204 11 00, for the entry in column (4), the entry "15% or Rs. 550 per piece, whichever is higher" shall be substituted;

(xxx) in tariff item 6204 12 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxxi) in tariff item 6204 13 00, for the entry in column (4), the entry "15% or Rs. 550 per piece, whichever is higher" shall be substituted;

(xxxii) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 19, the entry "15% or Rs. 500 per piece, whichever is higher" shall be substituted;

(xxxiii) in tariff item 6204 21 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 22, the entry "15%" shall be substituted;

(xxxv) in tariff item 6204 23 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 29, the entry "15%" shall be substituted;

(xxxvii) in tariff item 6204 31 00, for the entry in column (4), the entry "15% or Rs. 370 per piece, whichever is higher" shall be substituted;

(xxxviii) in tariff item 6204 32 00, for the entry in column (4), the entry "15% or Rs. 650 per piece, whichever is higher" shall be substituted;

(xxxix) in tariff item 6204 33 00, for the entry in column (4), the entry "15% or Rs. 390 per piece, whichever is higher" shall be substituted;

(xl) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 39, the entry "15% or Rs. 350 per piece, whichever is higher" shall be substituted;

(xli) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 41, the entry "15% or Rs. 145 per piece, whichever is higher" shall be substituted;

(xlii) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 42, the entry "15% or Rs. 116 per piece, whichever is higher" shall be substituted;

- (xliii) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 43, the entry "15% or Rs. 145 per piece, whichever is higher" shall be substituted;
- (xliv) in tariff item 6204 44 00, for the entry in column (4), the entry "15% or Rs. 145 per piece, whichever is higher" shall be substituted;
- (xlv) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 49, the entry "15% or Rs. 145 per piece, whichever is higher" shall be substituted;
- (xlv) in tariff item 6204 51 00, for the entry in column (4), the entry "15% or Rs. 485 per piece, whichever is higher" shall be substituted;
- (xlvii) in tariff items 6204 52 00 and 6204 53 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;
- (xlviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 59, the entry "15%" shall be substituted;
- (xlix) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 61, the entry "15% or Rs. 285 per piece, whichever is higher" shall be substituted;
- (l) in tariff item 6204 62 00, for the entry in column (4), the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;
- (li) in tariff item 6204 63 00, for the entry in column (4), the entry "15%" shall be substituted;
- (lii) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 69, the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;
- (liii) in tariff item 6205 10 00, for the entry in column (4), the entry "15% or Rs. 200 per piece, whichever is higher" shall be substituted;
- (liv) in tariff item 6205 20 00, for the entry in column (4), the entry "15% or Rs. 85 per piece, whichever is higher" shall be substituted;
- (lv) in tariff item 6205 30 00, for the entry in column (4), the entry "15% or Rs. 120 per piece, whichever is higher" shall be substituted;
- (lvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6205 90, the entry "15% or Rs. 95 per piece, whichever is higher" shall be substituted;
- (lvii) for the entry in column (4) occurring against all the tariff items of sub-heading 6206 10, the entry "15%" shall be substituted;
- (lviii) in tariff item 6206 20 00, for the entry in column (4), the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;
- (lix) in tariff item 6206 30 00, for the entry in column (4), the entry "15% or Rs. 95 per piece, whichever is higher" shall be substituted;
- (lx) in tariff item 6206 40 00, for the entry in column (4), the entry "15% or Rs. 120 per piece, whichever is higher" shall be substituted;
- (lxi) in tariff item 6206 90 00, for the entry in column (4), the entry "15%" shall be substituted;
- (lxii) in tariff item 6207 11 00, for the entry in column (4), the entry "15% or Rs. 28 per piece, whichever is higher" shall be substituted;
- (lxiii) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 19, the entry "15% or Rs. 30 per piece, whichever is higher" shall be substituted;
- (lxiv) in tariff item 6207 21 00, for the entry in column (4), the entry "15%" shall be substituted;
- (lxv) in tariff items 6207 22 00 and 6207 29 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;
- (lxvi) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 91, the entry "15%" shall be substituted;
- (lxvii) in tariff item 6207 92 00, for the entry in column (4), the entry "15%" shall be substituted;

(lxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 99, the entry "15% or Rs. 70 per piece, whichever is higher" shall be substituted;

(lxix) in tariff item 6208 11 00, for the entry in column (4), the entry "15% or Rs. 80 per piece, whichever is higher" shall be substituted;

(lxx) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 19, the entry "15% or Rs. 60 per piece, whichever is higher" shall be substituted;

(lxxi) in tariff items 6208 21 00 and 6208 22 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(lxxii) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 29, the entry "15%" shall be substituted;

(lxxiii) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 91, the entry "15% or Rs. 95 per piece, whichever is higher" shall be substituted;

(lxxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 92, the entry "15% or Rs. 65 per piece, whichever is higher" shall be substituted;

(lxxv) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 99, the entry "15%" shall be substituted;

(lxxvi) for the entry in column (4) occurring against all the tariff items of heading 6209, the entry "15%" shall be substituted;

(lxxvii) in tariff item 6210 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(lxxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 20, the entry "15% or Rs. 365 per piece, whichever is higher" shall be substituted;

(lxxix) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 30, the entry "15% or Rs. 305 per piece, whichever is higher" shall be substituted;

(lxxx) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 40, the entry "15% or Rs. 65 per piece, whichever is higher" shall be substituted;

(lxxxi) in tariff item 6210 50 00, for the entry in column (4), the entry "15% or Rs. 65 per piece, whichever is higher" shall be substituted;

(lxxxii) in tariff items 6211 11 00, 6211 12 00, 6211 20 00 and 6211 31 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(lxxxiii) in tariff items 6211 32 00 and 6211 33 00, for the entry in column (4) occurring against each of them, the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;

(lxxxiv) in tariff items 6211 39 00 and 6211 41 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(lxxxv) for the entry in column (4) occurring against all the tariff items of sub-heading 6211 42, the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;

(lxxxvi) in tariff item 6211 43 00, for the entry in column (4), the entry "15% or Rs. 135 per piece, whichever is higher" shall be substituted;

(lxxxvii) in tariff items 6211 49 00, for the entry in column (4), the entry "15%" shall be substituted;

(lxxxviii) for the entry in column (4) occurring against all the tariff items of heading 6212, the entry "15% or Rs. 30 per piece, whichever is higher" shall be substituted;

(lxxxix) for the entry in column (4) occurring against all the tariff items of heading 6213, the entry "15%" shall be substituted;

(xc) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 10, the entry "15% or Rs. 390 per piece, whichever is higher" shall be substituted;

(xci) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 20, the entry "15% or Rs. 180 per piece, whichever is higher" shall be substituted;

(xcii) in tariff items 6214 30 00 and 6214 40 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xciii) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 90, the entry "15% or Rs. 75 per piece, whichever is higher" shall be substituted;

(xciv) for the entry in column (4) occurring against all the tariff items of heading 6215, the entry "15% or Rs. 55 per piece, whichever is higher" shall be substituted;

(xcv) for the entry in column (4) occurring against all the tariff items of headings 6216 and 6217, the entry "15%" shall be substituted;

(39) in Chapter 63,—

(i) for the entry in column (4) occurring against all the tariff items (except tariff items 6301 20 00, 6302 21 00 and 6302 31 00), the entry "15%" shall be substituted;

(ii) in tariff item 6301 20 00, for the entry in column (4), the entry "15% or Rs. 275 per piece, whichever is higher" shall be substituted;

(iii) in tariff item 6302 21 00, for the entry in column (4), the entry "15% or Rs. 108 per kg., whichever is higher" shall be substituted;

(iv) in tariff item 6302 31 00, for the entry in column (4), the entry "15% or Rs. 96 per kg., whichever is higher" shall be substituted;

(40) in Chapter 64, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(41) in Chapter 65, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(42) in Chapter 66, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(43) in Chapter 67, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(44) in Chapter 68, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(45) in Chapter 69, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(46) in Chapter 70, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(47) in Chapter 71, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(48) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry "20%" shall be substituted;

(49) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(50) in Chapter 74, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(51) in Chapter 76, for the entry in column (4) occurring against all the tariff items of heading 7615, the entry "15%" shall be substituted;

(52) in Chapter 78, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(53) in Chapter 79, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(54) in Chapter 81, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(55) in Chapter 82, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(56) in Chapter 83, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(57) in Chapter 84,—

(i) for the entry in column (4) occurring against all the tariff items of headings 8401, 8402, 8403, 8404, 8405 and 8406, the entry "15%" shall be substituted;

(ii) in tariff items 8407 10 00 and 8407 29 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of sub-headings 8407 31, 8407 32, 8407 33, 8407 34 and 8407 90, the entry "15%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of headings 8408, 8409, 8410, 8411, 8412, 8413, 8414, 8415, 8416, 8417, 8418, 8419, 8420, 8421, 8422, 8423, 8424, 8425, 8426, 8427, 8428, 8429, 8430, 8431, 8432, 8433, 8434, 8435, 8436, 8437, 8438, 8439, 8440, 8441, 8442, 8443, 8444, 8445, 8446, 8447, 8448, 8449, 8450, 8451, 8452, 8453, 8454 and 8455, the entry "15%" shall be substituted;

(v) in tariff items 8456 10 00, 8456 20 00 and 8456 30 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(vi) for the entry in column (4) occurring against all the tariff items of sub-heading 8456 99, the entry "15%" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of headings 8457, 8458, 8459, 8460, 8461, 8462, 8463, 8464, 8465, 8466, 8467 and 8468, the entry "15%" shall be substituted;

(viii) in tariff item 8469 11 00, for the entry in column (4), the entry "Free" shall be substituted;

(ix) in tariff item 8469 12 00, for the entry in column (4), the entry "15%" shall be substituted;

(x) for the entry in column (4) occurring against all the tariff items of sub-headings 8469 20 and 8469 30, the entry "15%" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of heading 8470, the entry "Free" shall be substituted;

(xii) in tariff item 8471 10 00, for the entry in column (4), the entry "Free" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-headings 8471 30 and 8471 41, the entry "Free" shall be substituted;

(xiv) in tariff items 8471 49 00 and 8471 50 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of sub-heading 8471 60, the entry "Free" shall be substituted;

(xvi) in tariff items 8471 80 00 and 8471 90 00, for the entry in column (4), the entry "Free" shall be substituted;

(xvii) for the entry in column (4) occurring against all the tariff items of heading 8472, the entry "15%" shall be substituted;

(xviii) in tariff item 8473 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(xix) in tariff items 8473 21 00 and 8473 29 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(xx) for the entry in column (4) occurring against all the tariff items of sub-heading 8473 30, the entry "Free" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 8473 40, the entry "15%" shall be substituted;

(xxii) in tariff item 8473 50 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxiii) for the entry in column (4) occurring against all the tariff items of headings 8474, 8475, 8476, 8477, 8478, 8479, 8480, 8481, 8482, 8483, 8484 and 8485, the entry "15%" shall be substituted;

(58) in Chapter 85,—

(i) for the entry in column (4) occurring against all the tariff items of headings 8501, 8502, 8503, 8504, 8505, 8506, 8507, 8509, 8510, 8511, 8512, 8513, 8514, 8515 and 8516, the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of heading 8517, the entry "Free" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of headings 8518 and 8519, the entry "15%" shall be substituted;

(iv) in tariff item 8520 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(v) in tariff item 8520 20 00, for the entry in column (4), the entry "Free" shall be substituted;

(vi) in tariff item 8520 32 00, for the entry in column (4), the entry "15%" shall be substituted;

(vii) for the entry in column (4) occurring against all the tariff items of sub-headings 8520 33, 8520 39 and 8520 90, the entry "15%" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of headings 8521 and 8522, the entry "15%" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-headings 8523 11, 8523 12, 8523 13 and 8523 20, the entry "Free" shall be substituted;

(x) in tariff item 8523 30 00, for the entry in column (4), the entry "15%" shall be substituted;

(xi) for the entry in column (4) occurring against all the tariff items of sub-heading 8523 90, the entry "Free" shall be substituted;

(xii) for the entry in column (4) occurring against all the tariff items of sub-heading 8524 10, the entry "15%" shall be substituted;

(xiii) for the entry in column (4) occurring against all the tariff items of sub-heading 8524 31, the entry "Free" shall be substituted;

(xiv) for the entry in column (4) occurring against all the tariff items of sub-headings 8524 32 and 8524 39, the entry "15%" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of sub-heading 8524 40, the entry "Free" shall be substituted;

(xvi) for the entry in column (4) occurring against all the tariff items of sub-headings 8524 51, 8524 52 and 8524 53, the entry "15%" shall be substituted;

(xvii) in tariff item 8524 60 00, for the entry in column (4), the entry "15%" shall be substituted;

(xviii) for the entry in column (4) occurring against all the tariff items of sub-heading 8524 91, the entry "Free" shall be substituted;

(xix) for the entry in column (4) occurring against all the tariff items of sub-heading 8524 99, the entry "15%" shall be substituted;

(xx) for the entry in column (4) occurring against all the tariff items of sub-heading 8525 10, the entry "15%" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 8525 20, the entry "Free" shall be substituted;

(xxii) in tariff items 8525 30 00 and 8525 40 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxiii) for the entry in column (4) occurring against all the tariff items of headings 8526, 8527, 8528, 8529 and 8530, the entry "15%" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 8531 10, the entry "15%" shall be substituted;

(xxv) in tariff item 8531 20 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxvi) in tariff items 8531 80 00 and 8531 90 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxvii) in tariff items 8532 10 00, 8532 22 00, 8532 23 00 and 8532 25 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(xxviii) for the entry in column (4) occurring against all the tariff items of sub-heading 8532 29, the entry "Free" shall be substituted;

(xxix) in tariff items 8532 30 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxx) in tariff item 8533 10 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxxi) for the entry in column (4) occurring against all the tariff items of sub-headings 8533 21, 8533 29, 8533 31, 8533 39 and 8533 40, the entry "Free" shall be substituted;

(xxxii) in tariff item 8534 00 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxxiii) for the entry in column (4) occurring against all the tariff items of headings 8535, 8536, 8537, 8538 and 8539, the entry "15%" shall be substituted;

(xxxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 8540 11, the entry "15%" shall be substituted;

(xxxv) in tariff items 8540 12 00, 8540 20 00, 8540 50 00, 8540 60 00, 8540 71 00, 8540 72 00, 8540 79 00, 8540 81 00, 8540 89 00, 8540 91 00 and 8540 99 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxxvi) in tariff items 8541 10 00, 8541 21 00 and 8541 29 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(xxxvii) for the entry in column (4) occurring against all the tariff items of sub-headings 8541 30 and 8541 40, the entry "Free" shall be substituted;

(xxxviii) in tariff items 8541 50 00 and 8541 60 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(xxxix) for the entry in column (4) occurring against all the tariff items of sub-headings 8543 19 and 8543 20, the entry "15%" shall be substituted;

(xl) in tariff items 8543 30 00 and 8543 40 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xli) in tariff item 8543 81 00, for the entry in column (4), the entry "Free" shall be substituted;

(xlii) for the entry in column (4) occurring against all the tariff items of sub-heading 8543 89, the entry "15%" shall be substituted;

(xliii) in tariff item 8543 90 00, for the entry in column (4), the entry "15%" shall be substituted;

(xliv) for the entry in column (4) occurring against all the tariff items of sub-headings 8544 11, 8544 19 and 8544 20, the entry "15%" shall be substituted;

(xlv) in tariff item 8544 30 00, for the entry in column (4), the entry "15%" shall be substituted;

(xli) for the entry in column (4) occurring against all the tariff items of sub-headings 8544 41, 8544 49, 8544 51, 8544 59 and 8544 60, the entry "15%" shall be substituted;

(xlvii) for the entry in column (4) occurring against all the tariff items of sub-heading 8544 70, the entry "Free" shall be substituted;

(xlviii) for the entry in column (4) occurring against all the tariff items of headings 8545, 8546, 8547 and 8548, the entry "15%" shall be substituted;

(59) in Chapter 86, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(60) in Chapter 87,—

(i) for the entry in column (4) occurring against all the tariff items of headings 8701 and 8702, the entry "15%" shall be substituted;

(ii) for the entry in column (4) occurring against all the tariff items of heading 8703, the entry "100%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of headings 8704, 8705, 8706, 8707, 8708 and 8709, the entry "15%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of heading 8711, the entry "100%" shall be substituted;

(v) for the entry in column (4) occurring against all the tariff items of headings 8712, 8713, 8714, 8715 and 8716, the entry "15%" shall be substituted;

(61) in Chapter 88, for the entry in column (4) occurring against all the tariff items (except tariff items 8802 20 00, 8802 30 00, 8802 40 00, 8803 10 00, 8803 20 00 and 8803 30 00), the entry "15%" shall be substituted;

(62) in Chapter 89, for the entry in column (4) occurring against all the tariff items (except tariff item 8908 00 00), the entry "15%" shall be substituted;

(63) in Chapter 90,—

(i) for the entry in column (4) occurring against all the tariff items of headings 9001, 9002, 9003, 9004, 9005, 9006, 9007 and 9008, the entry "15%" shall be substituted;

(ii) in tariff item 9009 11 00, for the entry in column (4), the entry "Free" shall be substituted;

(iii) in tariff item 9009 12 00, for the entry in column (4), the entry "15%" shall be substituted;

(iv) in tariff item 9009 21 00, for the entry in column (4), the entry "Free" shall be substituted;

(v) in tariff items 9009 22 00 and 9009 30 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(vi) in tariff items 9009 91 00, 9009 92 00, 9009 93 00 and 9009 99 00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(vii) in tariff items 9010 10 00, 9010 50 00, 9010 60 00 and 9010 90 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(viii) for the entry in column (4) occurring against all the tariff items of headings 9011 and 9012, the entry "15%" shall be substituted;

(ix) for the entry in column (4) occurring against all the tariff items of sub-heading 9013 10, the entry "15%" shall be substituted;

(x) in tariff item 9013 20 00, for the entry in column (4), the entry "15%" shall be substituted;

(xi) in tariff item 9013 80 10, for the entry in column (4), the entry "Free" shall be substituted;

(xii) in tariff item 9013 80 90, for the entry in column (4), the entry "15%" shall be substituted;

(xiii) in tariff item 9013 90 10, for the entry in column (4), the entry "Free" shall be substituted;

(xiv) in tariff item 9013 90 90, for the entry in column (4), the entry "15%" shall be substituted;

(xv) for the entry in column (4) occurring against all the tariff items of headings 9014, 9015, 9016, 9017, 9018 and 9019, the entry "15%" shall be substituted;

(xvi) in tariff item 9020 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(xvii) for the entry in column (4) occurring against all the tariff items of headings 9021, 9022, 9023, 9024 and 9025, the entry "15%" shall be substituted;

(xviii) for the entry in column (4) occurring against all the tariff items of heading 9026, the entry "Free" shall be substituted;

(xix) in tariff item 9027 10 00, for the entry in column (4), the entry "15%" shall be substituted;

(xx) in tariff item 9027 20 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxi) for the entry in column (4) occurring against all the tariff items of sub-heading 9027 30, the entry "Free" shall be substituted;

(xxii) in tariff item 9027 40 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxiii) for the entry in column (4) occurring against all the tariff items of sub-headings 9027 50 and 9027 80, the entry "Free" shall be substituted;

(xxiv) for the entry in column (4) occurring against all the tariff items of sub-heading 9027 90, the entry "15%" shall be substituted;

(xxv) for the entry in column (4) occurring against all the tariff items of headings 9028 and 9029, the entry "15%" shall be substituted;

(xxvi) in tariff items 9030 10 00, 9030 20 00 and 9030 31 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxvii) for the entry in column (4) occurring against all the tariff items of sub-heading 9030 39, the entry "15%" shall be substituted;

(xxviii) in tariff item 9030 40 00, for the entry in column (4), the entry "Free" shall be substituted;

(xxix) in tariff item 9030 83 00, for the entry in column (4), the entry "15%" shall be substituted;

(xxx) for the entry in column (4) occurring against all the tariff items of sub-headings 9030 89 and 9030 90, the entry "15%" shall be substituted;

(xxxi) in tariff items 9031 10 00, 9031 20 00, 9031 30 00, 9031 49 00, 9031 80 00 and 9031 90 00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxxii) for the entry in column (4) occurring against all the tariff items of heading 9032, the entry "15%" shall be substituted;

(xxxiii) in tariff item 9033 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(64) in Chapter 91, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(65) in Chapter 92, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(66) in Chapter 93, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(67) in Chapter 94, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(68) in Chapter 95, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(69) in Chapter 96, for the entry in column (4) occurring against all the tariff items, the entry "15%" shall be substituted;

(70) in Chapter 97,—

(i) for the entry in column (4) occurring against all the tariff items of heading 9701, the entry "15%" shall be substituted;

(ii) in tariff item 9702 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(iii) for the entry in column (4) occurring against all the tariff items of headings 9703 and 9705, the entry "15%" shall be substituted;

(iv) in tariff item 9706 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(71) in Chapter 98,—

(i) for the entry in column (4) occurring against all the tariff items of heading 9801, the entry "15%" shall be substituted;

(ii) in tariff item 9802 00 00, for the entry in column (4), the entry "15%" shall be substituted;

(iii) in tariff item 9803 00 00, for the entry in column (4), the entry "100%" shall be substituted;

(iv) for the entry in column (4) occurring against all the tariff items of headings 9804 and 9805, the entry "15%" shall be substituted.

PART II

In the First Schedule to the Customs Tariff Act,—

1. In Chapter 22, for heading 2208 and the entries relating thereto, the following sub-headings, tariff items and entries shall be substituted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Stand- ard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirit, liqueurs and other spirituous beverages			
2208 20	<i>Spirits obtained by distilling grape wine or grape marc:</i>			
	<i>In containers holding 2 l or less :</i>	l	182%	-
2208 20 11	Brandy	l	182%	-
2208 20 12	Liquors	l	182%	-
2208 20 19	Other			
	Other	l	182%	-
2208 20 91	Brandy	l	182%	-
2208 20 92	Liquors	l	182%	-
2208 20 99	Other	l	182%	-
2208 30	<i>Whiskies :</i>			
	<i>In containers holding 2 l or less :</i>	l	182%	-
2208 30 11	Bourbon whiskey	l	182%	-
2208 30 12	Scotch	l	182%	-
2208 30 13	Blended	l	182%	-
2208 30 19	Other			
	Other	l	182%	-
2208 30 91	Bourbon whiskey	l	182%	-
2208 30 92	Scotch	l	182%	-
2208 30 93	Blended	l	182%	-
2208 30 99	Other			
2208 40	<i>Rum and tafia :</i>			
	<i>In containers holding 2 l or less :</i>	l	182%	-
2208 40 11	Rum	l	182%	-
2208 40 12	Tafia			
	Other	l	182%	-
2208 40 91	Rum	l	182%	-
2208 40 92	Tafia			
2208 50	<i>Gin and Geneva:</i>			
	<i>In containers holding 2 l or less :</i>	l	182%	-
2208 50 11	Gin	l	182%	-
2208 50 12	Geneva	l	182%	-
2208 50 13	Vodka			
	Other :	l	182%	-
2208 50 91	Gin	l	182%	-
2208 50 92	Geneva	l	182%	-
2208 50 93	Vodka			
2208 70	<i>Liqueurs and cordials:</i>			
	<i>In containers holding 2 l or less :</i>	l	182%	-
2208 70 11	Liqueurs	l	182%	-
2208 70 12	Cordials			
	Other			

Tariff Item	Description of goods	Unit	Rate of duty	
			Stand-ard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
2208 70 91	--- Liqueurs	l	182%	-
2208 70 92	--- Cordials	l	182%	-
2208 90	- Other:			
	--- In containers holding 2 l or less :			
2208 90 11	--- Tequila	l	182%	-
2208 90 12	--- Indenatured ethyl alcohol	l	182%	-
2208 90 19	--- Other	l	182%	-
	--- Other			
2208 90 91	--- Tequila	l	182%	-
2208 90 92	--- Indenatured ethyl alcohol	l	182%	-
2208 90 99	--- Other	l	182%	-

(z) in Chapter 28,—

(i) in heading 2812,—

(a) for tariff item 2812 10 10 and the entries relating thereto, the following shall be substituted, namely:—

“2812 10 10	--- Phosgene (carbonyl chloride, carbonyl dichloride, carbon oxy-chloride, chloroformyl chloride)	kg.	15%	-”;
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(b) for tariff item 2812 10 20 and the entries relating thereto, the following shall be substituted, namely:—

“--- Phosphorus trichloride and Phosphorus pentachloride:				
2812 10 21	--- Phosphorus trichloride	kg.	15%	-
2812 10 22	--- Phosphorus pentachloride	kg.	15%	-”;

(c) for tariff item 2812 10 40 and the entries relating thereto, the following shall be substituted, namely:—

“--- Sulphur oxychloride, Sulphur monochloride, Sulphur dichloride and Thionyl chloride:				
2812 10 41	--- Sulphur oxychloride	kg.	15%	-
2812 10 42	--- Sulphur monochloride	kg.	15%	-
2812 10 43	--- Sulphur dichloride	kg.	15%	-
2812 10 47	--- Thionyl chloride	kg.	15%	-”;

(d) after tariff item 2812 10 50 and the entries relating thereto, the following shall be inserted, namely:—

“2812 10 60	--- Arsenous trichloride	kg.	15%	-”;
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(ii) in heading 2851, for tariff item 2851 00 90 and the entries relating thereto, the following shall be substituted, namely:—

“--- Other :				
2851 00 91	--- Cyanogen chloride [(CN) Cl]	kg.	15%	-
2851 00 99	--- Other	kg.	15%	-”;

(2) in Chapter 29,—

(i) in heading 2903, for tariff item 2903 30 10 and the entries relating thereto, the following shall be substituted, namely:—

“--- Fluorinated derivatives :				
2903 30 11	--- 1-Propene, 1, 1,3,3,3,-Pentafluoro - 2-(trifluoromethyl) (PFIB)	kg.	15%	-
2903 30 19	--- Other	kg.	15%	-”;

Tariff Item	Description of goods	Unit	Rate of duty	
			Stand- ard	Preferential Areas
(1)	(2)	(3)	(4)	(5)

(ii) in heading 2904, after tariff item 2904 90 70 and the entries relating thereto, the following shall be inserted, namely:—

"2904 90 80 — Chloropicrin (Trichloronitro-Methane) kg. 15% -";

(iii) in heading 2905, for tariff item 2905 19 00 and the entries relating thereto, the following shall be substituted, namely:—

"2905 19 — Other :

2905 19 10 — 2-Butanol, 3, 3-dimethyl-

2905 19 90 — Other kg. 15% -";

(iv) in heading 2918, for tariff item 2918 19 00 and the entries relating thereto, the following shall be substituted, namely:—

"2918 19 — Other :

2918 19 10 — Benzeneacetic acid, kg. 15% -

alpha-hydroxy-alpha-phenyl-

2918 19 90 — Other kg. 15% -";

(v) in heading 2920,—

(a) for tariff item 2920 10 00 and the entries relating thereto, the following shall be substituted, namely:—

"— Phosphorothioic acid, S
[2-(diethylamino) ethyl] O,O-
diethyl ester; and
Thiophosphoric esters
(phosphorothioates) and
their salts; their halogenated,
sulphonated, nitrated or nitrosated
derivatives :

2920 10 10 — Phosphorothioic acid, S kg. 15% -

[2-(diethylamino) ethyl] O,O-diethyl ester

2920 10 20 — Thiophosphoric esters (phosphorothioates) kg. 15% -";
and their salts; their halogenated, sulphonated,
nitrated or nitrosated derivatives

(b) for tariff item 2920 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"— Other :

2920 90 41 — Trimethyl Phosphite kg. 15% -

2920 90 42 — Triethyl Phosphite kg. 15% -

2920 90 43 — Dimethyl Phosphite kg. 15% -

2920 90 44 — Diethyl Phosphite kg. 15% -

2920 90 45 — O, O, Dimethyl Methyl Phosphonate kg. 15% -

2920 90 47 — Phosphonic Acid, Methyl- kg. 15% -

compound with (aminoimino methyl) urea (1:1)

2920 90 48 — 1-Propanaminium N, N, N-trimethyl kg. 15% -

-3-[1-oxo-9-octadecenyl]amino]-,(Z)-
methyl methylphosphonate

Tariff Item	Description of goods	Unit	Rate of duty	
			Stand- ard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
2920 90 51	Phosphonic acid, [methyl-bis (5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphorinan-5-yl)methyl] ester	kg.	15%	-
2920 90 52	Phosphonic acid, [methyl-(5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphorinan-5-yl)methyl] ester	kg.	15%	-
2920 90 53	Phosphonic acid, propyl-dimethyl ester	kg.	15%	-
2920 90 54	Phosphonous acid, methyl-diethyl ester	kg.	15%	-
2920 90 55	Phosphonic acid, ethyl-	kg.	15%	-
2920 90 56	Phosphonic acid, propyl-	kg.	15%	-
2920 90 57	Phosphinic acid, methyl-	kg.	15%	-
2920 90 58	Phosphonochloridic acid, methyl-, methyl ester	kg.	15%	-
2920 90 61	Phosphonothioic dichloride, ethyl-	kg.	15%	-
2920 90 62	Phosphonic acid, methyl-	kg.	15%	-
2920 90 63	Phosphonic acid, methyl-, dimethyl ester	kg.	15%	-
2920 90 64	Phosphonic dichloride, methyl-	kg.	15%	-
2920 90 65	Phosphonous dichloride, methyl-	kg.	15%	-
2920 90 66	Phosphonic acid, ethyl-, diethyl ester	kg.	15%	-
2920 90 99	Other	kg.	15%	-";

(vi) in heading 2921, for tariff item 2921 19 00 and the entries relating thereto, the following shall be substituted, namely:—

"2921 19	Other :			
	2-Chloro N,N-Di-isopropyl ethylamine and Ethanamine, 2-Chloro-N, N-dimethyl :			
2921 19 11	2-Chloro N,N-Di-isopropyl ethylamine	kg.	15%	-
2921 19 14	Ethanamine, 2-Chloro-N, N-dimethyl	kg.	15%	-
2921 19 90	Other	kg.	15%	-";

(vii) in heading 2922,—

(a) for tariff items 2922 11 00 and 2922 12 00 and the entries relating thereto, the following shall be substituted, namely:—

"2922 11	Monoethanolamine and its salts:			
	2-Hydroxy N,N-Diisopropyl Ethylamine, N,N-Diethyl Amino ethyl Chloride Hydrochloride, Di-ethyl Amino ethanethiol Hydrochloride, Di-Methyl Amino ethyl chloride Hydrochloride, Di-Methyl Amino ethanethiol, Di-Methyl Amino ethanethiol Hydrochloride:			
2922 11 11	2-Hydroxy N,N-Diisopropyl Ethylamine	kg.	15%	-
2922 11 12	N,N-Diethyl Amino ethyl Chloride Hydrochloride	kg.	15%	-
2922 11 13	Di-ethyl Amino ethanethiol Hydrochloride	kg.	15%	-

Tariff Item	Description of goods	Unit	Rate of duty	
			Stand-ard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
2922 11 14	--- Di-Methyl Amino ethyl chloride Hydrochloride	kg.	15%	-
2922 11 15	--- Di-Methyl Amino ethanethiol	kg.	15%	-
2922 11 16	--- Di-Methyl Amino ethanethiol Hydrochloride	kg.	15%	-
2922 11 90	--- Other	kg.	15%	-
2922 12	--- <i>Diethanolamine and its salts:</i>			
	--- <i>Ethyldiethanolamine and Methyldiethanolamine :</i>			
2922 12 11	--- Ethyldiethanolamine	kg.	15%	-
2922 12 12	--- Methyldiethanolamine	kg.	15%	-
2922 12 90	--- Other	kg.	15%	-";

(b) for tariff item 2922 19 00 and the entries relating thereto, the following shall be substituted, namely:—

"2922 19	--- Other :	kg.	15%	-
2922 19 10	--- Diethyl amino ethanethiol	kg.	15%	-
2922 19 20	--- Ethanol, 2- [bis(1-methylethyl) amino]-	kg.	15%	-
2922 19 30	--- Ethanethiol, 2-(diethylamino)-	kg.	15%	-
2922 19 90	--- Other	kg.	15%	-";

(viii) in heading 2930, for tariff item 2930 90 90 and the entries relating thereto, the following shall be substituted, namely:—

"2930 90 91	--- Other :	kg.	15%	-
2930 90 91	--- Ethanol, 2,2'-thiobis-	kg.	15%	-";
2930 90 99	--- Other			

(ix) in heading 2933, after tariff item 2933 39 20 and the entries relating thereto, the following shall be inserted, namely:—

"2933 39 30	--- 1-Azabicyclo (2.2.2.) octan-3-ol	kg.	15%	-";
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(x) in heading 2939, for tariff item 2939 29 00 and the entries relating thereto, the following shall be substituted, namely:—

"2939 29	--- Other :	kg.	15%	-
2939 29 10	--- Benzeneacetic acid, alpha			
	--- -hydroxy-alpha-phenyl, 1-			
	--- azabicyclo[2.2.2.]oct-3-yl ester	kg.	15%	-";
2939 29 90	--- Other			

THE THIRD SCHEDULE

(See section 81)

THE THIRD SCHEDULE

[See section 2(f)(iii)]

NOTES

1. In this Schedule, "heading", "sub-heading" and "tariff item" mean respectively a heading, sub-heading and tariff item in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the Section and Chapter Notes and the General Explanatory Notes of the said First Schedule shall, apply to the interpretation of this Schedule.

S. No.	Heading, sub-heading or tariff item	Description of goods
(1)	(2)	(3)
1.	0402 91 10 or 0402 99 20	Concentrated (condensed) milk, whether sweetened or not put up in unit containers and ordinarily intended for sale
2.	1702	Preparation of other sugar
3.	1702	Sugar syrups not containing added flavouring or colouring matters, artificial honey whether or not mixed with natural honey; caramel
4.	1704	Gums, whether or not sugar coated (including chewing gum, bubble gum and the like)
5.	1704 90	All goods
6.	1805 00 00 or 1806 10 00	Cocoa powder, whether or not containing added sugar or other sweetening matter
7.	1806	Other food preparations containing cocoa.
8.	1806 90 10	Chocolates in any form, whether or not containing nuts, fruit kernels or fruits, including drinking chocolates
9.	1901 20 00 or 1901 90	All goods
10.	1902	All goods other than seviyan (Vermicelli).
11.	1904	All goods
12.	1905 31 00 or 1905 90 20	Biscuits, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power
13.	1905 32 11 or 1905 32 90	Waffles and wafers, coated with chocolate or containing chocolate
14.	1905 32 19 or 1905 32 90	All goods
15.	2101 11 00 or 2101 12 00	Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee
16.	2102	All goods
17.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
18.	2106 90 20	Pan masala, only in retail packs containing ten grams or more per pack, other than the goods containing not more than 15% betel nut by weight and not containing tobacco in any proportion
19.	2106 90 30	Betel nut powder known as "Supari"
20.	2106 90 11	Sharbat
21.	2106 10 00, 2106 90 19,	Edible preparations (excluding "Prasad or prasadam"), not elsewhere specified or included, bearing a brand name

S. No.	Heading, sub-heading or tariff item	Description of goods
(1)	(2)	(3)
22.	2106 90 40, 2106 90 50, 2106 90 60, 2106 90 70, 2106 90 80, 2106 90 91, 2106 90 99 2201	Waters, including natural or artificial mineral waters (excluding Aerated waters), bearing a brand name
23.	2201 10 20	Aerated waters
24.	2202 10 10	Aerated waters
25.	2202 10 90	Waters, including mineral waters, bearing a brand name
26.	2209	Vinegar and substitutes for vinegar obtained from acetic acid
27.	2403 99 10, 2403 99 20, 2403 99 30	Chewing tobacco and preparations containing chewing tobacco
28.	2403 99 90	Pan masala containing tobacco
29.	2523 21 00	White cement, whether or not artificially coloured and whether or not with rapid hardening properties
30.	2710	Lubricating oils and lubricating preparations
31.	3004	(i) Patent or proprietary medicaments, other than those medicaments which are exclusively Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic; (ii) Medicaments (other than patent or proprietary) other than those which are exclusively used in Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic systems. <i>Explanation.</i> — For the purposes of this heading, "Patent or proprietary medicaments" means any drug or medicinal preparation, in whatever form, for use in the internal or external treatment of, or for the prevention of ailments in human beings or animals, which bears either on itself or on its container or both, a name which is not specified in a monograph, in a Pharmacopoeia, Formulary or other publications, namely:— (a) the Indian Pharmacopoeia; (b) the International Pharmacopoeia; (c) the National Formulary of India; (d) the British Pharmacopoeia; (e) the British Pharmaceutical Codex; (f) the British Veterinary Codex; (g) the United States Pharmacopoeia; (h) the National Formulary of the U.S.A.; (i) the Dental Formulary of the U.S.A.; and (j) the State Pharmacopoeia of the U.S.S.R., or which is a brand name, that is, a name or a registered trade mark under the Trade Marks Act, 1999 (47 of 1999), or any other mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to that medicine for the purpose of indicating or so as to indicate a connection in the course of trade between the medicine and some person, having the right either as proprietor or otherwise to use the name or mark with or without any indication of the identity of that person.
32.	3204 20 or 3204 90 00	Synthetic organic products of a kind used as florescent brightening agents or as a luminophores
33.	3206	All goods other than pigments and inorganic products of a kind used as luminophores
34.	3208 or 3209 or 3210	All goods

S. No.	Heading, sub-heading or tariff item	Description of goods
(1)	(2)	(3)
35.	3212 90	Dyes and other colouring matter put up in forms or small packing of a kind used for domestic or laboratory purposes
36.	(i) 3213 (ii) 3214	All goods All goods excluding primers (heading 3208), varnishes (heading 3209)
37.	(i) 3303 (ii) 3304 or 3305	Perfumes and toilet waters, not containing the substances specified in Note 1(d) to this Chapter. All goods
38.	3306	Toothpaste
39.	3307	All goods, not containing the substances specified in Note 1(d) to this Chapter
40.	3401	Soaps in any form other than the following : (i) soap, other than for toilet use, whether or not containing medicament or disinfectant; (ii) soap, in or in relation to the manufacture of which no process has been carried on with the aid of power or of steam; and (iii) laundry soaps produced by a factory owned by the Khadi and Village Industries Commission or any organisation approved by the said Commission for the purpose of manufacture of such soaps
41.	(i) 3401 (ii) 3402	Organic surface-active products and preparations for use as soap in the form of bars, cakes, moulded pieces or shapes All goods other than sulphonated castor oil, fish oil or sperm oil
42.	3403	Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations based on lubricants)
43.	3405	Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal, scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, non-wovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading 3404
44.	3506	Prepared glues and other prepared adhesives not elsewhere specified or included
45.	3702	All goods other than for X-ray and cinematograph films, unexposed
46.	3808	Insecticides, fungicides, herbicides, weedicides and pesticides
47.	3808	Disinfectants and similar products
48.	3814 00 10	Thinners
49.	3819	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70% by weight of petroleum oils obtained from bituminous minerals
50.	3820 20 00	Anti-freezing preparations and prepared de-icing fluids
51.	3824 or 3825	Stencil correctors and other correcting fluids, ink removers put up in packings for retail sale
52.	3919	Self-adhesive tapes of plastics
53.	3923 or 3924	Insulated ware
54.	4816	Carbon paper, self-copy paper, duplicator stencils, of paper
55.	4818	Cleansing or facial tissues, handkerchiefs and towels of paper pulp, paper, cellulose wadding or webs of cellulose fibres
56.	6401 to 6405	Footwear
57.	6506 10	Safety headgear
58.	6907	Vitrified tiles, whether polished or not
59.	6908	Glazed tiles
60.	7321	Cooking appliances and plate warmers
61.	7323	Pressure cookers
62.	7324	Sanitary ware of iron or steel
63.	7418	Sanitary ware of copper

S. No.	Heading, sub-heading or tariff item	Description of goods
(1)	(2)	(3)
64.	7615 19 10	Pressure cookers
65.	8212	Razor and razor blades (including razor blade blanks in strips)
66.	8305	Staples in strips, paper-clips of base metal
67.	8414	Electric fans
68.	8415	Window room air-conditioners and split air-conditioners of capacity up to 3 tonnes
69.	8418	Refrigerators
70.	8421	Water filters and water purifiers, of a kind used for domestic purposes
71.	8422	Dish washing machines
72.	8450	Household or laundry type washing machines, including machines which both wash and dry
73.	8469	Typewriters, other than braille typewriters
74.	8470	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions
75.	8472	Stapling machines (staplers)
76.	8506	Primary cells and primary batteries
77.	8509	Electro-mechanical domestic appliances with self-contained electric motor
78.	8510	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor
79.	8513	Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading 8512
80.	8516	Electric instantaneous or storage water heaters and immersion heaters, electric space heating apparatus and soil heating apparatus, electro-thermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing iron; other electro-thermic appliances of a kind used for domestic purposes
81.	8517	Telephone sets including telephones with cordless handsets; video phones; facsimile machines
82.	8519 or 8520	All goods
83.	8521	All goods
84.	8523	Unrecorded audio cassettes
85.	8523	Video cassettes
86.	8523	Magnetic discs
87.	8524	Video cassettes
88.	8524	Magnetic discs
89.	8525	Pagers, cellular or mobile phones
90.	8527	Radio sets including transistor sets, having the facility of receiving radio signals and converting the same into audio output with no other additional facility like sound recording or reproducing or clock in the same housing or attached to it
91.	8527	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing with sound recording or reproducing apparatus or a clock
92.	8528	Television receivers (including video monitors and video projectors), whether or not incorporating radio broadcast receivers or sound or video recording or reproducing apparatus
93.	8536	All goods
94.	8539	Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc lamps
95.	9006	Photographic (other than cinematographic) cameras
96.	9101 or 9102	Watches other than braille watches
97.	9103 or 9105	Clocks
98.	9612	All goods
99.	9617	Vacuum flasks.

THE FOURTH SCHEDULE

(See section 82)

S.No.	Provisions of the Central Excise Rules, 1944 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
1.	Rule 57CC of the Central Excise Rules, 1944 as inserted by notification No. G.S.R. 324(E), dated the 23rd July, 1996 [14/96-Central Excise (N.T.), dated the 23rd July, 1996]	In the Central Excise Rules, 1944, in rule 57CC, the <i>Explanation</i> shall be numbered as <i>Explanation 1</i> thereof; and after <i>Explanation 1</i> as so numbered, the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation 2.</i> —If the manufacturer fails to pay the said amount, it shall be recovered along with interest in the same manner, as provided in rule 57-I, for recovery of credit wrongly taken.”	1st day of August, 1996 to 28th day of February, 1997 (both days inclusive)
2.	Rule 57CC of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 122(E), dated the 1st March, 1997 [6/97-Central Excise (N.T.), dated the 1st March, 1997]	In the Central Excise Rules, 1944, in rule 57CC, after sub-rule (9), the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation.</i> — If the manufacturer fails to pay the said amount, it shall be recovered along with interest in the same manner, as provided in rule 57-I, for recovery of credit wrongly taken.”	1st day of March, 1997 to 31st day of March, 2000 (both days inclusive)
3.	Rule 57D of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 203(E), dated the 1st March, 2000 [11/2000-Central Excise (N.T.), dated the 1st March, 2000] and as substituted by rule 57AD by notification No. 298(E), dated the 31st March, 2000 [27/2000-Central Excise (N.T.), dated the 31st March, 2000]	In the Central Excise Rules, 1944, in rule 57AD, after sub-rule (2), the <i>Explanation</i> shall be numbered as <i>Explanation 1</i> thereof; and after <i>Explanation 1</i> as so numbered, the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation 2.</i> —If the manufacturer fails to pay the said amount, it shall be recovered along with interest in the same manner, as provided in rule 57AH, for recovery of CENVAT credit wrongly taken.”	1st day of April, 2000 to 30th day of June, 2001 (both days inclusive)

THE FIFTH SCHEDULE

(See section 83)

Provisions of the CENVAT Credit Rules, 2001 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)
Rule 6 of the CENVAT Credit Rules, 2001 as published by notification No. G.S.R. 445(E), dated the 21st June, 2001 [31/2001-Central Excise (N.T.), dated the 21st June, 2001]	In the CENVAT Credit Rules, 2001, in rule 6, after sub-rule (3), the <i>Explanation</i> shall be numbered as <i>Explanation 1</i> thereof; and after <i>Explanation 1</i> as so numbered, the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation 2</i> .—If the manufacturer fails to pay the said amount, it shall be recovered along with interest in the same manner, as provided in rule 12, for recovery of CENVAT credit wrongly taken.”	1st day of July, 2001 to the 28th day of February, 2002 (both days inclusive).

THE SIXTH SCHEDULE

(See section 84)

Notification No. and date	Text of Amendment 2001 to be amended	Period of effect of amendment
G.S.R.277 (E), dated the 1st March, 1988. [88/88-Central Excise, dated the 1st March, 1988]	In the said notification, in the <i>Explanation</i> , for clause (a), the following clause shall be substituted, namely:— “(a) the expression “rural area” shall have the meaning assigned to it in clause (ff) of section 2 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956).”	21st day of February, 2000 to 28th day of February, 2003 (both days inclusive)

THE SEVENTH SCHEDULE

(See section 85)

NOTES

1. In this Schedule, "heading", "sub-heading", "tariff item" and "Chapter" mean respectively a heading, sub-heading, tariff item and Chapter in the First Schedule to the Central Excise Tariff Act.

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of this Schedule.

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
2106 90 20	— Pan masala	kg.	10%
2401	UNMANUFACTURED TOBACCO; TOBACCO REFUSE		
2401 10	— Tobacco, not stemmed or stripped:		
2401 10 10	— Flue cured Virginia tobacco	kg.	10%
2401 10 20	— Sun cured country (natu) tobacco	kg.	10%
2401 10 30	— Sun cured Virginia tobacco	kg.	10%
2401 10 40	— Burley tobacco	kg.	10%
2401 10 50	— Tobacco for manufacture of biris, not stemmed	kg.	10%
2401 10 60	— Tobacco for manufacture of chewing tobacco	kg.	10%
2401 10 70	— Tobacco for manufacture of cigar and cheroot	kg.	10%
2401 10 80	— Tobacco for manufacture of hookah tobacco	kg.	10%
2401 10 90	— Other	kg.	10%
	— Tobacco partly or wholly stemmed or stripped:		
2401 20 10	— Flue cured virginia tobacco	kg.	10%
2401 20 20	— Sun cured country (natu) tobacco	kg.	10%
2401 20 30	— Sun cured virginia tobacco	kg.	10%
2401 20 40	— Burley tobacco	kg.	10%
2401 20 50	— Tobacco for manufacture of biris, not stemmed	kg.	10%
2401 20 60	— Tobacco for manufacture of chewing tobacco	kg.	10%
2401 20 70	— Tobacco for manufacture of cigar and cheroot	kg.	10%
2401 20 80	— Tobacco for manufacture of hookah tobacco	kg.	10%
2401 20 90	— Other	kg.	10%
2401 30 00	— Tobacco refuse	kg.	10%
2402	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, - OF TOBACCO OR OF TOBACCO SUBSTITUTES		
2402 10	— Cigars, cheroots and cigarillos, containing tobacco:		
2402 10 10	— Cigars and cheroots	T u	10%
2402 10 20	— Cigarillos	T u	10%
2402 20	— Cigarettes containing tobacco:		
2402 20 10	— Other than filter cigarettes, of length not exceeding 60 millimetres	T u	Rs.15 per thousand
2402 20 20	— Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	T u	Rs.45 per thousand
2402 20 30	— Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	T u	Rs.70 per thousand
2402 20 40	— Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	T u	Rs.110 per thousand

Tariff item		Description of goods	Unit	Rate of duty
(1)		(2)	(3)	(4)
2402 20 50	—	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	T u	Rs.145 per thousand
2402 20 90	—	Other	T u	Rs.180 per thousand
2402 90	-	<i>Other :</i>		
2403		OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; "HOMOGENISED" OR "RECONSTITUTED" TOBACCO, TOBACCO EXTRACTS AND ESSENCES		
2403 10	-	<i>Smoking tobacco, whether or not containing tobacco substitutes in any proportion:</i>		
2403 10 10	---	Hookah or gudaku tobacco bearing a brand name	kg.	10%
2403 10 20	---	Smoking mixtures for pipes and cigarettes	kg.	10%
2403 10 90	---	Other	kg.	10%
	-	<i>Other :</i>		
2403 91 00	---	"Homogenised" or "reconstituted" tobacco	kg.	10%
2403 99	---	<i>Other :</i>		
2403 99 10	---	Chewing tobacco	kg.	10%
2403 99 20	---	Preparations containing chewing tobacco	kg.	10%
2403 99 30	---	Jarda scented tobacco	kg.	10%
2403 99 40	---	Snuff	kg.	10%
2403 99 50	---	Preparations containing snuff	kg.	10%
2403 99 60	---	Tobacco extracts and essence	kg.	10%
2403 99 70	---	Cut tobacco	kg.	Rs. 5 per kg.
2403 99 90	---	Other	kg.	10%

THE EIGHTH SCHEDULE

[See section 86(a)]

In the First Schedule to the Central Excise Tariff Act,—

(1) in Chapter 15, after NOTE 5, the following NOTE shall be inserted, namely:—

'6. In relation to refined edible vegetable oils falling under headings 1507 to 1515, the process of refining, that is to say, any one or more of the processes, namely, treatment of crude oil with an alkali, bleaching and deodorisation, shall amount to "manufacture".';

(2) in Chapter 17, for the entry in column (4) occurring against all the tariff items of heading 1703, the entry "Rs. 1,000 per tonne" shall be substituted;

(3) in Chapter 22, in tariff item 2201 90 90, for the entry in column (4), the entry "16%" shall be substituted;

(4) in Chapter 25, in tariff item 2523 10 00, for the entry in column (4), the entry "Rs. 350 per tonne" shall be substituted;

(5) in Chapter 27,—

(i) for the entry in column (4) occurring against all tariff items of sub-heading 2710 11, the entry "16% plus Rs. 15.00 per litre" shall be substituted;

(ii) in tariff item 2710 19 30, for the entry in column (4), the entry "16% plus Rs. 5.00 per litre" shall be substituted;

(iii) in tariff item 2710 19 40, for the entry in column (4), the entry "16% plus Rs. 5.00 per litre" shall be substituted;

(6) in Chapter 51, in NOTE 3, for "5109", substitute "5109 or 5110, dyeing";

(7) in Chapter 52, in NOTE 2, for "5205 and 5206", substitute "5205, 5206 and 5207";

(8) in Chapter 52, in NOTE 4, for "5207 or 5208 or 5209", substitute "5208 or 5209 or 5210 or 5211 or 5212";

(9) in Chapter 54,—

(a) in NOTE 2, for "5402 and 5403", substitute "5402, 5403 and 5406";

(b) in NOTE 3, after "5403", insert "or 5404";

(10) in Chapter 55,—

(a) in NOTE 2, after "5510", insert "or 5511";

(b) in NOTE 4, after "5515", insert "or 5516";

(11) in Chapter 57, in tariff items 5701 10 00, 5701 90 10 and 5701 90 90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(12) in Chapter 58, in tariff items 5805 00 10, 5805 00 20 and 5805 00 90, for the entry in column (4) occurring against each of them, the entry "Nil" shall be inserted;

(13) in Chapter 70, in NOTE 6, for "7015", substitute "7013";

(14) in Chapter 71, after NOTE 11, the following NOTES shall be inserted, namely:—

'12. In this Chapter, "brand name" or "trade name" means a brand name or trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

13. For the purposes of heading 7113, the processes of affixing or embossing trade name or brand name on articles of jewellery shall amount to "manufacture".'

(15) in Chapter 90, against tariff item 9017 20 10, for the entry in column (4), the entry "16%" shall be substituted.

THE NINTH SCHEDULE

[See section 86(b)]

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)

In the Second Schedule to the Central Excise Tariff Act,—

(a) after tariff item 2401 30 00 and the entries relating thereto, the following tariff items and entries shall be inserted, namely:—

2403 10 10	— Hookah or gudaku tobacco	kg.	16%
2403 91 00	— “Homogenised” or “reconstituted” tobacco	kg.	16%”;

(b) after tariff item 2403 99 20 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

2403 99 30	— Jarda scented tobacco	kg.	16%”;
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(c) after tariff item 2403 99 50 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

2403 99 60	— Tobacco, extracts and essence	kg.	16%”;
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(d) after heading 8704, the following sub-heading, tariff item and entries shall be inserted, namely:—

8704 10	— Dumpers <i>designed for off — highway use:</i>		
8704 10 90	— Other	u	8%”

THE TENTH SCHEDULE

(See section 116)

THE FIRST SCHEDULE

[See section 3(1)]

NOTES

1. In this Schedule, "tariff item", "heading", "sub-heading" and "Chapter" mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Schedule.

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
1701	CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM		
-	<i>Raw sugar not containing added flavouring or colouring matter :</i>		
1701 11	<i>Cane sugar :</i>		
1701 11 10	Cane jaggery	kg.	Rs. 37 per quintal
1701 11 90	Other	kg.	Rs. 37 per quintal
1701 12 00	Beet sugar	kg.	Rs. 37 per quintal
-	<i>Other :</i>		
1701 91 00	Refined sugar containing added flavouring or colouring matter	kg.	Rs. 37 per quintal
1701 99	<i>Other :</i>		
1701 99 10	Sugar cubes	kg.	Rs. 37 per quintal
1701 99 90	Other	kg.	Rs. 37 per quintal
1702 90 10	Palmyra sugar	kg.	Nil
2401	UNMANUFACTURED TOBACCO; TOBACCO REFUSE		
2401 10	<i>Tobacco, not stemmed or stripped :</i>		
2401 10 10	Flue cured virginia tobacco	kg.	10%
2401 10 20	Sun cured country (natu) tobacco	kg.	10%
2401 10 30	Sun cured virginia tobacco	kg.	10%
2401 10 40	Burley tobacco	kg.	10%
2401 10 50	Tobacco for manufacture of biris, not stemmed	kg.	10%
2401 10 60	Tobacco for manufacture of chewing tobacco	kg.	10%
2401 10 70	Tobacco for manufacture of cigar and cheroot	kg.	10%
2401 10 80	Tobacco for manufacture of hookah tobacco	kg.	10%
2401 10 90	Other	kg.	10%
2401 20	<i>Tobacco, partly or wholly stemmed or stripped :</i>		
2401 20 10	Flue cured virginia tobacco	kg.	10%
2401 20 20	Sun cured country (natu) tobacco	kg.	10%
2401 20 30	Sun cured virginia tobacco	kg.	10%
2401 20 40	Burley tobacco	kg.	10%
2401 20 50	Tobacco for manufacture of biris	kg.	10%

Tariff Item		Description of goods	Unit	Rate of Additional Duty
(1)		(2)	(3)	(4)
2401 20 60	---	Tobacco for manufacture of chewing tobacco	kg.	10%
2401 20 70	---	Tobacco for manufacture of cigar and cheroot	kg.	10%
2401 20 80	---	Tobacco for manufacture of hookah tobacco	kg.	10%
2401 20 90	---	Other	kg.	10%
2401 30 00	-	Tobacco refuse	kg.	10%
2402		CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES		
2402 10	-	<i>Cigars, cheroots and cigarillos, containing tobacco :</i>		
2402 10 10	---	Cigar and cheroots	Tu	Nil
2402 10 20	---	Cigarillos	Tu	Nil
2402 20	-	<i>Cigarettes, containing tobacco :</i>		
2402 20 10	---	Other than filter cigarettes, of length not exceeding 60 millimetres	Tu	Rs. 37 per thousand
2402 20 20	---	Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	Tu	Rs. 125 per thousand
2402 20 30	---	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	Tu	Rs. 185 per thousand
2402 20 40	---	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	Rs. 300 per thousand
2402 20 50	---	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs. 400 per thousand
2402 20 90	---	Other	Tu	Rs. 495 per thousand
2402 90	-	<i>Other:</i>		
2402 90 90	---	Other	Tu	Nil
2403		OTHER MANUFACTURED TABACCO		
2403 10 10	---	Hookah or gudaku tobacco	kg.	18%
2403 10 20	---	Smoking mixtures for pipes and cigarettes	kg.	75%
	---	<i>Biris:</i>		
2403 10 31	---	Other than paper rolled biris, manufactured without the aid of machine	Tu	Rs. 1.40 per thousand
2403 10 39	---	Other	Tu	Rs. 3.50 per thousand
2403 10 90	---	Other	kg.	18%
2403 99	-	<i>Other:</i>		
2403 99 10	---	Chewing tobacco	kg.	18%
2403 99 20	---	Preparations containing chewing tobacco	kg.	18%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
2403 99 30	--- Jarda scented tobacco	kg.	18%
2403 99 40	--- Snuff	kg.	18%
2403 99 50	--- Preparations containing snuff	kg.	18%
2403 99 70	--- Cut-tobacco	kg.	Nil
2403 99 90	--- Other	kg.	18%
5007	WOVEN FABRICS OF SILK OR OF SILK WASTE		
5007 10 00	- Fabrics of noil silk	m ²	Nil
5007 20	- <i>Other fabrics, containing 85% or more by weight of silk or of silk waste other than noil silk :</i>		
5007 20 10	--- Sarees	m ²	Nil
5007 20 90	--- Other	m ²	Nil
5007 90 00	- Other fabrics	m ²	Nil
5111	WOVEN FABRICS OF CARDED WOOL EXCLUDING HAIR BELTING		
	- <i>Containing 85% or more by weight of wool :</i>		
5111 11	- <i>Of a weight not exceeding 300 g/m² :</i>		
5111 11 10	--- Unbleached	m ²	8%
5111 11 20	--- Bleached	m ²	8%
5111 11 30	--- Dyed	m ²	8%
5111 11 40	--- Printed	m ²	8%
5111 11 90	--- Other	m ²	8%
5111 19	- <i>Other :</i>		
5111 19 10	--- Unbleached	m ²	8%
5111 19 20	--- Bleached	m ²	8%
5111 19 30	--- Dyed	m ²	8%
5111 19 40	--- Printed	m ²	8%
5111 19 90	--- Other	m ²	8%
5111 20	- <i>Other, mixed mainly or solely with man-made filaments :</i>		
5111 20 10	--- Unbleached	m ²	8%
5111 20 20	--- Bleached	m ²	8%
5111 20 30	--- Dyed	m ²	8%
5111 20 40	--- Printed	m ²	8%
5111 20 90	--- Other	m ²	8%
5111 30	- <i>Other, mixed mainly or solely with man-made staple fibres :</i>		
5111 30 10	--- Unbleached	m ²	8%
5111 30 20	--- Bleached	m ²	8%
5111 30 30	--- Dyed	m ²	8%
5111 30 40	--- Printed	m ²	8%
5111 30 90	--- Other	m ²	8%
5111 90	- <i>Other :</i>		
5111 90 10	--- Unbleached	m ²	8%
5111 90 20	--- Bleached	m ²	8%
5111 90 30	--- Dyed	m ²	8%
5111 90 40	--- Printed	m ²	8%
5111 90 90	--- Other	m ²	8%
5112	WOVEN FABRICS OF COMBED WOOL EXCLUDING HAIR BELTING		
	- <i>Containing 85% or more by weight of wool:</i>		
5112 11	- <i>Of a weight not exceeding 200 g/m² :</i>		
5112 11 10	--- Unbleached	m ²	8%
5112 11 20	--- Bleached	m ²	8%
5112 11 30	--- Dyed	m ²	8%
5112 11 40	--- Printed	m ²	8%
5112 11 90	--- Other	m ²	8%
5112 19	- <i>Other :</i>		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5112 19 10	Unbleached	m ²	8%
5112 19 20	Bleached	m ²	8%
5112 19 30	Dyed	m ²	8%
5112 19 40	Printed	m ²	8%
5112 19 90	Other	m ²	8%
5112 20	<i>Other, mixed mainly or solely with man-made filaments:</i>		
5112 20 10	Unbleached	m ²	8%
5112 20 20	Bleached	m ²	8%
5112 20 30	Dyed	m ²	8%
5112 20 40	Printed	m ²	8%
5112 20 90	Other	m ²	8%
5112 30	<i>Other, mixed mainly or solely with man-made staple fibres:</i>		
5112 30 10	Unbleached	m ²	8%
5112 30 20	Bleached	m ²	8%
5112 30 30	Dyed	m ²	8%
5112 30 40	Printed	m ²	8%
5112 30 90	Other	m ²	8%
5112 90	<i>Other:</i>		
5112 90 10	Unbleached	m ²	8%
5112 90 20	Bleached	m ²	8%
5112 90 30	Dyed	m ²	8%
5112 90 40	Printed	m ²	8%
5112 90 90	Other	m ²	8%
5208	WOVEN FABRICS OF COTTON, CONTAINING 85% OR MORE BY WEIGHT OF COTTON, WEIGHING NOT MORE THAN 200 g/m²		
	<i>Unbleached:</i>		
5208 11	<i>Plain weave, weighing not more than 100 g/m²:</i>		
5208 11 10	Dhoti	m ²	8%
5208 11 20	Saree	m ²	8%
5208 11 30	Shirting fabrics	m ²	8%
5208 11 40	Casement	m ²	8%
5208 11 90	Other	m ²	8%
5208 12	<i>Plain weave, weighing more than 100 g/m²:</i>		
5208 12 10	Dhoti	m ²	8%
5208 12 20	Saree	m ²	8%
5208 12 30	Shirting fabrics	m ²	8%
5208 12 40	Casement	m ²	8%
5208 12 50	Sheeting (takia, leopard fabrics, other than furnishing fabrics)	m ²	8%
5208 12 60	Voils	m ²	8%
5208 12 90	Other	m ²	8%
5208 13	<i>3-thread or 4-thread twill, including cross twill:</i>		
5208 13 10	Shirting fabrics	m ²	8%
5208 13 20	Dobby fabrics	m ²	8%
5208 13 90	Other	m ²	8%
5208 19	<i>Other fabrics:</i>		
5208 19 10	Dedsuti, dosuti fabrics	m ²	8%
5208 19 90	Other	m ²	8%
	<i>Bleached:</i>		
5208 21	<i>Plain weave, weighing not more than 100 g/m²:</i>		
5208 21 10	Dhoti	m ²	8%
5208 21 20	Saree	m ²	8%
5208 21 30	Casement	m ²	8%
5208 21 40	Shirting fabrics	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5208 21 50	Cambrics (including madapollam and jaconet)	m ²	8%
5208 21 60	Mulls (including limbric and willaya)	m ²	8%
5208 21 70	Muslin (including lawn, mulmul and organdi)	m ²	8%
5208 21 80	Voils (excluding leno fabrics)	m ²	8%
5208 21 90	Other	m ²	8%
5208 22	<i>Plain weave, weighing more than 100 g/m² :</i>		
5208 22 10	Dhoti	m ²	8%
5208 22 20	Saree	m ²	8%
5208 22 30	Shirting fabrics	m ²	8%
5208 22 40	Casement	m ²	8%
5208 22 50	Cambrics (including madapollam and jaconet)	m ²	8%
5208 22 60	Long cloth (including calico)	m ²	8%
5208 22 70	Sheeting (takia and the like)	m ²	8%
5208 22 80	Voils (excluding leno fabrics)	m ²	8%
5208 22 90	Other	m ²	8%
5208 23	<i>3-thread or 4-thread twill, including cross twill :</i>		
5208 23 10	Shirting fabrics	m ²	8%
5208 23 20	Parmatta fabrics (including ilesia, pocketing, Italian twill)	m ²	8%
5208 23 30	Shirting fabrics	m ²	8%
5208 23 90	Other	m ²	8%
5208 29	<i>Other fabrics :</i>		
5208 29 10	Dhoti and saree, zari bordered	m ²	8%
5208 29 20	Dedsuti, dosuti fabrics, ceretonnos and osamburge	m ²	8%
5208 29 90	Other	m ²	8%
5208 31	<i>Dyed :</i>		
5208 31 10	<i>Plain weave, weighing not more than 100 g/m² :</i>		
5208 31 20	Lungi	m ²	8%
5208 31 30	Saree	m ²	8%
5208 31 40	Shirting fabrics	m ²	8%
5208 31 50	Casement	m ²	8%
5208 31 60	Cambrics (including madapollam and jaconet)	m ²	8%
5208 31 70	Mull (including limbric and willaya)	m ²	8%
5208 31 80	Muslin (including lawn mulmul and organdi) of	m ²	8%
5208 31 90	carded or combed yarn		
5208 32	Voils (excluding leno fabrics)	m ²	8%
5208 32 10	Other	m ²	8%
5208 32 20	<i>Plain weave, weighing more than 100 g/m² :</i>		
5208 32 30	Lungi	m ²	8%
5208 32 40	Saree	m ²	8%
5208 32 50	Shirting fabrics	m ²	8%
5208 32 60	Casement	m ²	8%
5208 32 70	Bed ticking, domestic	m ²	8%
5208 32 80	Cambrics (including madapollam and jaconet),	m ²	8%
5208 32 90	longcloth (including calico) and voils		
5208 33	(excluding leno fabrics)		
5208 33 10	Coating (including suiting)	m ²	8%
5208 33 20	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5208 33 30	Other	m ²	8%
5208 33 90	<i>3-thread or 4-thread twill, including cross twill :</i>		
5208 34	Shirting fabrics	m ²	8%
5208 34 10	Coating (including suiting)	m ²	8%
5208 34 20	Shirting (including mazri)	m ²	8%
5208 34 30	Other	m ²	8%
5208 34 90	<i>Other fabrics :</i>		
5208 35	Zari bordered sarees	m ²	8%
5208 35 10	Other	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
	<i>Of yarn of different colours :</i>		
5208 41	<i>Plain weave, weighing not more than 100 g/m² :</i>		
5208 41 10	Bleeding Madras	m ²	8%
5208 41 20	Saree	m ²	8%
5208 41 30	Shirting fabrics	m ²	8%
5208 41 40	Bed ticking, domestic	m ²	8%
5208 41 50	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5208 41 90	Other	m ²	8%
5208 42	<i>Plain weave, weighing more than 100 g/m² :</i>		
5208 42 10	Bleeding Madras	m ²	8%
5208 42 20	Saree	m ²	8%
5208 42 30	Shirting fabrics	m ²	8%
5208 42 40	Casement	m ²	8%
5208 42 50	Bed ticking, domestic	m ²	8%
5208 42 60	Furnishing fabrics, other than pile and chenille fabric	m ²	8%
5208 42 90	Other	m ²	8%
5208 43	<i>3-thread or 4-thread twill, including cross twill :</i>		
5208 43 10	Bleeding Madras	m ²	8%
5208 43 20	Shirting fabrics	m ²	8%
5208 43 30	Bedticking, damask	m ²	8%
5208 43 40	Flannelette	m ²	8%
5208 43 90	Other	m ²	8%
5208 49	<i>Other fabrics :</i>		
5208 49 10	Zari bordered sarees	m ²	8%
5208 49 20	Real Madras handkerchiefs	m ²	8%
5208 49 90	Other	m ²	8%
	<i>Printed :</i>		
5208 51	<i>Plain weave, weighing not more than 100 g/m² :</i>		
5208 51 10	Lungi	m ²	8%
5208 51 20	Saree	m ²	8%
5208 51 30	Shirting fabrics	m ²	8%
5208 51 40	Casement	m ²	8%
5208 51 50	Cambrics (including madapollam and jaconet)	m ²	8%
5208 51 60	Mull (including limbric and willaya)	m ²	8%
5208 51 70	Muslin (including lawn mulmul and organdi) of carded or combed yarn	m ²	8%
5208 51 80	Voils (excluding leno fabrics)	m ²	8%
5208 51 90	Other	m ²	8%
5208 52	<i>Plain weave, weighing more than 100 g/m² :</i>		
5208 52 10	Lungi	m ²	8%
5208 52 20	Saree	m ²	8%
5208 52 30	Shirting fabrics	m ²	8%
5208 52 40	Casement	m ²	8%
5208 52 50	Cambrics (including madapollam and jaconet)	m ²	8%
5208 52 60	Mull (including limbric and willaya)	m ²	8%
5208 52 70	Muslin (including lawn mulmul and organdi) of carded or combed yarn	m ²	8%
5208 52 80	Voils (excluding leno fabrics)	m ²	8%
5208 52 90	Other	m ²	8%
5208 53	<i>3-thread or 4-thread twill, including cross twill :</i>		
5208 53 10	Shirting fabrics	m ²	8%
5208 53 20	Bedticking	m ²	8%
5208 53 90	Other	m ²	8%
5208 59	<i>Other fabrics :</i>		
5208 59 10	Zari bordered sarees	m ²	8%
5208 59 90	Other	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5209	WOVEN FABRICS OF COTTON, CONTAINING 85% OR MORE BY WEIGHT OF COTTON, WEIGHING MORE THAN 200 g/m ²		
	<i>Unbleached :</i>		
5209 11	<i>Plain weave :</i>		
	<i>Handloom :</i>		
5209 11 11	Dhoti	m ²	8%
5209 11 12	Saree	m ²	8%
5209 11 13	Casement	m ²	8%
5209 11 14	Sheeting (takia, leopard cloth and other than furnishing)	m ²	8%
5209 11 19	Other	m ²	8%
5209 11 90	Other	m ²	8%
5209 12	<i>3-thread or 4-thread twill, including cross twill:</i>		
5209 12 10	Saree	m ²	8%
5209 12 20	Shirting fabrics	m ²	8%
5209 12 30	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 12 40	Seersucker	m ²	8%
5209 12 50	Canvas, including duck-carded or combed yarn	m ²	8%
5209 12 60	Flannelette	m ²	8%
5209 12 70	Sheeting (takia, leopard cloth)	m ²	8%
5209 12 90	Other	m ²	8%
5209 19 00	Other fabrics	m ²	8%
	<i>Bleached :</i>		
5209 21	<i>Plain weave :</i>		
5209 21 10	Saree	m ²	8%
5209 21 20	Shirting fabrics	m ²	8%
5209 21 30	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 21 40	Seersucker	m ²	8%
5209 21 50	Canvas (including duck) of carded or combed yarn	m ²	8%
5209 21 60	Dhoti	m ²	8%
5209 21 70	Flannelette	m ²	8%
5209 21 80	Sheeting (takia, leopard cloth)	m ²	8%
5209 21 90	Other	m ²	8%
5209 22	<i>3-thread or 4-thread twill, including cross twill :</i>		
5209 22 10	Shirting fabrics	m ²	8%
5209 22 20	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 22 30	Drill	m ²	8%
5209 22 90	Other	m ²	8%
5209 29	<i>Other fabrics :</i>		
5209 29 10	Dhoti and saree, zari bordered	m ²	8%
5209 29 20	Dedsuti, dosuti fabrics, ceretones and osamburge	m ²	8%
5209 29 90	Other	m ²	8%
	<i>Dyed :</i>		
5209 31	<i>Plain weave :</i>		
5209 31 10	Lungi	m ²	8%
5209 31 20	Saree	m ²	8%
5209 31 30	Shirting fabrics	m ²	8%
5209 31 40	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 31 50	Seersucker	m ²	8%
5209 31 60	Bedticking, domestic (other than hand dyed)	m ²	8%
5209 31 70	Canvas (including duck), of carded or combed yarn	m ²	8%
5209 31 80	Flannelette	m ²	8%
5209 31 90	Other	m ²	8%
5209 32	<i>3-thread or 4-thread twill, including cross twill :</i>		
5209 32 10	Shirting fabrics	m ²	8%
5209 32 20	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5209 32 30	Drill	m ²	8%
5209 32 90	Other	m ²	8%
5209 39	<i>Other fabrics :</i>		
5209 39 10	Zari bordered sarees	m ²	8%
5209 39 90	Other	m ²	8%
	<i>Of yarns of different colours :</i>		
5209 41	<i>Plain weave :</i>		
5209 41 10	Bleeding Madras	m ²	8%
5209 41 20	Saree	m ²	8%
5209 41 30	Shirting fabrics	m ²	8%
5209 41 40	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 41 50	Seersucker	m ²	8%
5209 41 60	Bedticking, domestic (other than hand dyed)	m ²	8%
5209 41 70	Flannelette	m ²	8%
5209 41 90	Other	m ²	8%
5209 42 00	Denim	m ²	8%
5209 43	<i>Other fabrics of 3-thread or 4-thread twill, including cross twill :</i>		
5209 43 10	Bleeding Madras	m ²	8%
5209 43 20	Shirting fabrics	m ²	8%
5209 43 30	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 43 40	Coating (including suiting)	m ²	8%
5209 43 90	Other	m ²	8%
5209 49	<i>Other fabrics :</i>		
5209 49 10	Zari bordered saree	m ²	8%
5209 49 90	Other	m ²	8%
	<i>Printed :</i>		
5209 51	<i>Plain weave :</i>		
5209 51 10	Lungi	m ²	8%
5209 51 20	Saree	m ²	8%
5209 51 30	Shirting fabrics	m ²	8%
5209 51 40	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 51 50	Seersucker	m ²	8%
5209 51 60	Bedticking, domestic	m ²	8%
5209 51 70	Flannelette	m ²	8%
5209 51 90	Other	m ²	8%
5209 52	<i>3-thread or 4-thread twill, including cross twill :</i>		
5209 52 10	Shirting fabrics	m ²	8%
5209 52 20	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5209 52 90	Other	m ²	8%
5209 59	<i>Other fabrics :</i>		
5209 59 10	Zari bordered saree	m ²	8%
5209 59 90	Other	m ²	8%
5210	WOVEN FABRICS OF COTTON, CONTAINING LESS THAN 85% BY WEIGHT OF COTTON, MIXED MAINLY OR SOLELY WITH MAN-MADE FIBRES, WEIGHING NOT MORE THAN 200 g/m ²		
	<i>Unbleached :</i>		
5210 11	<i>Plain weave :</i>		
5210 11 10	Shirting fabrics	m ²	8%
5210 11 20	Saree	m ²	8%
5210 11 90	Other	m ²	8%
5210 12	<i>3-thread or 4-thread twill, including cross twill :</i>		
5210 12 10	Shirting fabrics	m ²	8%
5210 12 90	Other	m ²	8%
5210 19 00	Other fabrics	m ²	8%
	<i>Bleached :</i>		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
521021	Plain weave :		
521021 10	Shirting fabrics	m ²	8%
521021 20	Poplin and broad fabrics	m ²	8%
521021 30	Saree	m ²	8%
521021 40	Shirting (including mazri)	m ²	8%
521021 50	Voile	m ²	8%
521021 90	Other	m ²	8%
521022	3-thread or 4-thread twill, including cross twill :		
	Handloom :		
521022 11	Crepe fabrics including crepe checks	m ²	8%
521022 12	Shirting fabrics	m ²	8%
521022 19	Other fabrics	m ²	8%
	Other :		
521022 21	Shirting (including mazri)	m ²	8%
521022 29	Other	m ²	8%
521029	Other fabrics :		
521029 10	Dhoti and saree, zari bordered	m ²	8%
521029 20	Dedsuti, Dosuti, ceretonnos and osamburge	m ²	8%
521029 90	Other	m ²	8%
	Dyed :		
521031	Plain weave :		
521031 10	Shirting fabrics	m ²	8%
521031 20	Coating (including suitings)	m ²	8%
521031 30	Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
521031 40	Poplin and broad fabrics	m ²	8%
521031 50	Saree	m ²	8%
521031 60	Voils	m ²	8%
521031 90	Other	m ²	8%
521032	3-thread or 4-thread twill, including cross twill :		
521032 10	Crepe fabrics including crepe checks	m ²	8%
521032 20	Shirting fabrics	m ²	8%
521032 30	Bedticking, damask	m ²	8%
521032 39	Other	m ²	8%
521039	Other fabrics :		
521039 10	Zari bordered saree	m ²	8%
521039 90	Other	m ²	8%
	Of yarns of different colours :		
521041	Plain weave :		
521041 10	Bleeding Madras	m ²	8%
521041 20	Crepe fabrics (excluding crepe checks)	m ²	8%
521041 30	Shirting fabrics	m ²	8%
521041 40	Suitings	m ²	8%
521041 50	Poplin and broad fabrics	m ²	8%
521041 60	Saree	m ²	8%
521041 70	Voils	m ²	8%
521041 90	Other	m ²	8%
521042	3-thread or 4-thread twill, including cross twill :		
521042 10	Bleeding Madras	m ²	8%
521042 20	Crepe fabrics including crepe checks	m ²	8%
521042 30	Shirting fabrics	m ²	8%
521042 40	Suitings	m ²	8%
521042 50	Bedticking, damask	m ²	8%
521042 60	Shirtings (including mazri)	m ²	8%
521042 90	Other	m ²	8%
521049	Other fabrics :		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5210 49 10	--- Zari bordered saree	m ²	8%
5210 49 90	--- Other	m ²	8%
	<i>Printed :</i>		
5210 51	--- <i>Plain weave :</i>		
5210 51 10	--- Shirting fabrics	m ²	8%
5210 51 20	--- Casement	m ²	8%
5210 51 30	--- Saree	m ²	8%
5210 51 40	--- Poplin and broad fabrics	m ²	8%
5210 51 50	--- Voils	m ²	8%
5210 51 90	--- Other	m ²	8%
5210 52	--- <i>3-thread or 4-thread twill, including cross twill :</i>		
5210 52 10	--- Crepe fabrics including crepe checks	m ²	8%
5210 52 20	--- Shirting fabrics	m ²	8%
5210 52 90	--- Other	m ²	8%
5210 59	--- <i>Other fabrics :</i>		
5210 59 10	--- Zari bordered saree	m ²	8%
5210 59 90	--- Other	m ²	8%
5211	WOVEN FABRICS OF COTTON, CONTAINING LESS THAN 85% BY WEIGHT OF COTTON, MIXED MAINLY OR SOLELY WITH MAN-MADE FIBRES, WEIGHING MORE THAN 200 g/m²		
	<i>Unbleached :</i>		
5211 11	--- <i>Plain weave :</i>		
5211 11 10	--- Shirting fabrics	m ²	8%
5211 11 20	--- Saree	m ²	8%
5211 11 90	--- Other	m ²	8%
5211 12	--- <i>3-thread or 4-thread twill, including cross twill :</i>		
5211 12 10	--- Shirting fabrics	m ²	8%
5211 12 20	--- Twill, not elsewhere specified (including gaberdine)	m ²	8%
5211 12 30	--- Damask	m ²	8%
5211 12 90	--- Other	m ²	8%
5211 19 00	--- Other fabrics	m ²	8%
	<i>Bleached :</i>		
5211 21	--- <i>Plain weave :</i>		
5211 21 10	--- Shirting fabrics	m ²	8%
5211 21 20	--- Canvas (including duck) of carded or combed yarn	m ²	8%
5211 21 30	--- Flannelette	m ²	8%
5211 21 40	--- Saree	m ²	8%
5211 21 50	--- Shirting fabrics	m ²	8%
5211 21 90	--- Other	m ²	8%
5211 22	--- <i>3-thread or 4-thread twill, including cross twill :</i>		
5211 22 10	--- Crepe fabrics including crepe checks	m ²	8%
5211 22 20	--- Shirting fabrics	m ²	8%
5211 22 30	--- Twill fabrics	m ²	8%
5211 22 90	--- Other	m ²	8%
5211 29	--- <i>Other fabrics :</i>		
5211 29 10	--- Zari bordered saree	m ²	8%
5211 29 20	--- Dedsuti, dosuti, ceretonnies and osamburge	m ²	8%
5211 29 90	--- Other	m ²	8%
	<i>Dyed :</i>		
5211 31	--- <i>Plain weave :</i>		
5211 31 10	--- Shirting fabrics	m ²	8%
5211 31 20	--- Canvas (including duck) of carded or combed yarn	m ²	8%
5211 31 30	--- Coating (including suitings)	m ²	8%
5211 31 40	--- Flannelette	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5211 31 50	--- Saree	m ²	8%
5211 31 90	--- Other	m ²	8%
5211 32	--- <i>3-thread or 4-thread twill, including cross twill :</i>		
5211 32 10	--- Crepe fabrics including crepe checks	m ²	8%
5211 32 20	--- Shirting fabrics	m ²	8%
5211 32 30	--- Twill, not elsewhere specified (including gaberdine)	m ²	8%
5211 32 40	--- Trousers or pant fabrics (excluding jeans and crepe)	m ²	8%
5211 32 90	--- Other	m ²	8%
5211 39	--- <i>Other fabrics :</i>		
5211 39 10	--- Zari bordered sarees	m ²	8%
5211 39 90	--- Other	m ²	8%
	--- <i>Of yarns of different colours :</i>		
5211 41	--- <i>Plain weave :</i>		
5211 41 10	--- Bleeding Madras	m ²	8%
5211 41 20	--- Check shirting (excluding crepe checks)	m ²	8%
5211 41 30	--- Shirting	m ²	8%
5211 41 40	--- Suitings	m ²	8%
5211 41 50	--- Flannelette	m ²	8%
5211 41 60	--- Saree	m ²	8%
5211 41 70	--- Parachute fabrics	m ²	8%
5211 41 90	--- Other	m ²	8%
5211 42 00	--- Denim	m ²	8%
5211 43	--- <i>Other fabrics of 3-thread or 4-thread twill, including cross twill :</i>		
5211 43 10	--- Bleeding Madras	m ²	8%
5211 43 20	--- Crepe fabrics	m ²	8%
5211 43 30	--- Shirting fabrics	m ²	8%
5211 43 40	--- Suitings	m ²	8%
5211 43 90	--- Other	m ²	8%
5211 49	--- <i>Other fabrics :</i>		
5211 49 10	--- Zari bordered sarees	m ²	8%
5211 49 90	--- Other	m ²	8%
	--- <i>Printed :</i>		
5211 51	--- <i>Plain weave :</i>		
5211 51 10	--- Shirting fabrics	m ²	8%
5211 51 20	--- Furnishing fabrics (excluding pile and chenille fabrics)	m ²	8%
5211 51 30	--- Flannelette	m ²	8%
5211 51 40	--- Long cloth (chintz)	m ²	8%
5211 51 50	--- Saree	m ²	8%
5211 51 90	--- Other	m ²	8%
5211 52	--- <i>3-thread or 4-thread twill, including cross twill :</i>		
5211 52 10	--- Crepe fabrics including crepe checks	m ²	8%
5211 52 20	--- Shirting fabrics	m ²	8%
5211 52 30	--- Twill, not elsewhere specified (including gaberdine)	m ²	8%
5211 52 90	--- Other	m ²	8%
5211 59	--- <i>Other fabrics :</i>		
5211 59 10	--- Zari bordered saree	m ²	8%
5211 59 90	--- Other	m ²	8%
5212	OTHER WOVEN FABRICS OF COTTON		
	--- <i>Weighing not more than 200 g/m² :</i>		
5212 11 00	--- Unbleached	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5212 12 00	-- Bleached	m ²	8%
5212 13 00	-- Dyed	m ²	8%
5212 14 00	-- Of yarns of different colours	m ²	8%
5212 15 00	-- Printed	m ²	8%
	-- <i>Weighing more than 200 g/m² :</i>		
5212 21 00	-- Unbleached	m ²	8%
5212 22 00	-- Bleached	m ²	8%
5212 23 00	-- Dyed	m ²	8%
5212 24 00	-- Of yarns of different colours	m ²	8%
5212 25 00	-- Printed	m ²	8%
5407	WOVEN FABRICS OF SYNTHETIC FILAMENT YARN, INCLUDING		
	WOVEN FABRICS OBTAINED FROM MATERIALS OF HEADING 5404		
5407 10	<i>Woven fabrics obtained from high tenacity yarn of nylon or other polyamides or of polyesters :</i>		
	<i>Unbleached :</i>		
5407 10 11	--- Parachute fabrics	m ²	8%
5407 10 12	--- Tent fabrics	m ²	8%
5407 10 13	--- Nylon furnishing fabrics	m ²	8%
5407 10 14	--- Umbrella cloth panel fabrics	m ²	8%
5407 10 15	--- Other nylon and polyamide fabrics (filament)	m ²	8%
5407 10 16	--- Polyester suitings	m ²	8%
5407 10 19	--- Other polyester fabrics	m ²	8%
	<i>Bleached :</i>		
5407 10 21	--- Parachute fabrics	m ²	8%
5407 10 22	--- Tent fabrics	m ²	8%
5407 10 23	--- Nylon furnishing fabrics	m ²	8%
5407 10 24	--- Umbrella cloth panel fabrics	m ²	8%
5407 10 25	--- Other nylon and polyamide fabrics of filament yarn	m ²	8%
5407 10 26	--- Polyester suitings	m ²	8%
5407 10 29	--- Other	m ²	8%
	<i>Dyed :</i>		
5407 10 31	--- Parachute fabrics	m ²	8%
5407 10 32	--- Tent fabrics	m ²	8%
5407 10 33	--- Nylon furnishing fabrics	m ²	8%
5407 10 34	--- Umbrella cloth panel fabrics	m ²	8%
5407 10 35	--- Other nylon and polyamide fabrics (filament)	m ²	8%
5407 10 36	--- Polyester suitings	m ²	8%
5407 10 39	--- Other	m ²	8%
	<i>Printed :</i>		
5407 10 41	--- Parachute fabrics	m ²	8%
5407 10 42	--- Tent fabrics	m ²	8%
5407 10 43	--- Nylon furnishing fabrics	m ²	8%
5407 10 44	--- Umbrella cloth panel fabrics	m ²	8%
5407 10 45	--- Other nylon and polyamide fabrics (filament)	m ²	8%
5407 10 46	--- Polyester suitings	m ²	8%
5407 10 49	--- Other	m ²	8%
	<i>Other :</i>		
5407 10 91	--- Parachute fabrics	m ²	8%
5407 10 92	--- Tent fabrics	m ²	8%
5407 10 93	--- Nylon furnishing fabrics	m ²	8%
5407 10 94	--- Umbrella cloth panel fabrics	m ²	8%
5407 10 95	--- Other nylon and polyamide fabrics of filament yarn	m ²	8%
5407 10 96	--- Polyester suitings	m ²	8%
5407 10 99	--- Other	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5407 20	- <i>Woven fabrics obtained from strip or the like :</i>		
5407 20 10	--- Unbleached	m ²	8%
5407 20 20	--- Bleached	m ²	8%
5407 20 30	--- Dyed	m ²	8%
5407 20 40	--- Printed	m ²	8%
5407 20 90	--- Other	m ²	8%
5407 30	- <i>Fabrics specified in Note 9 to Section XI :</i>		
5407 30 10	--- Unbleached	m ²	8%
5407 30 20	--- Bleached	m ²	8%
5407 30 30	--- Dyed	m ²	8%
5407 30 40	--- Printed	m ²	8%
5407 30 90	--- Other	m ²	8%
	- <i>Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides :</i>		
5407 41	--- <i>Unbleached or bleached :</i>		
	--- <i>Unbleached :</i>		
5407 41 11	--- Nylon brasso	m ²	8%
5407 41 12	--- Nylon georgette	m ²	8%
5407 41 13	--- Nylon tafetta	m ²	8%
5407 41 14	--- Nylon sarees	m ²	8%
5407 41 19	--- Other	m ²	8%
	--- <i>Bleached :</i>		
5407 41 21	--- Nylon brasso	m ²	8%
5407 41 22	--- Nylon georgette	m ²	8%
5407 41 23	--- Nylon tafetta	m ²	8%
5407 41 24	--- Nylon sarees	m ²	8%
5407 41 29	--- Other	m ²	8%
5407 42	--- <i>Dyed :</i>		
5407 42 10	--- Nylon brasso	m ²	8%
5407 42 20	--- Nylon georgette	m ²	8%
5407 42 30	--- Nylon tafetta	m ²	8%
5407 42 40	--- Nylon sarees	m ²	8%
5407 42 90	--- Other	m ²	8%
5407 43 00	--- Of yarn of different colours	m ²	8%
5407 44	--- <i>Printed :</i>		
5407 44 10	--- Nylon brasso	m ²	8%
5407 44 20	--- Nylon georgette	m ²	8%
5407 44 30	--- Nylon tafetta	m ²	8%
5407 44 40	--- Nylon sarees	m ²	8%
5407 44 90	--- Other	m ²	8%
	- <i>Other woven fabrics, containing 85% or more by weight of textured polyester filaments:</i>		
5407 51	--- <i>Unbleached or bleached :</i>		
	--- <i>Unbleached :</i>		
5407 51 11	--- Polyester shirtings	m ²	8%
5407 51 19	--- Other	m ²	8%
	--- <i>Bleached :</i>		
5407 51 21	--- Polyester shirtings	m ²	8%
5407 51 29	--- Other	m ²	8%
5407 52	--- <i>Dyed :</i>		
5407 52 10	--- Polyester shirtings	m ²	8%
5407 52 20	--- Polyester suitings	m ²	8%
5407 52 30	--- Terylene and dacron sarees	m ²	8%
5407 52 40	--- Polyester sarees	m ²	8%
5407 52 90	--- Other	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5407 53 00	-- Of yarns of different colours	m ²	8%
5407 54	-- <i>Printed :</i>		
5407 54 10	--- Terylene and dacron sarees	m ²	8%
5407 54 20	--- Polyester shirtings	m ²	8%
5407 54 30	--- Polyester sarees	m ²	8%
5407 54 90	--- Other	m ²	8%
	-- <i>Other woven fabrics, containing 85% or more by weight of polyester filaments :</i>		
5407 61	-- <i>Containing 85% or more by weight of non-textured polyester filaments :</i>		
5407 61 10	--- Polyester shirtings	m ²	8%
5407 61 20	--- Polyester suitings	m ²	8%
5407 61 90	--- Other	m ²	8%
5407 69 00	--- Other	m ²	8%
	-- <i>Other woven fabrics, containing 85% or more by weight of synthetic filaments :</i>		
5407 71	-- <i>Unbleached or bleached :</i>		
5407 71 10	--- Unbleached	m ²	8%
5407 71 20	--- Bleached	m ²	8%
5407 72 00	--- Dyed	m ²	8%
5407 73 00	-- Of yarns of different colours	m ²	8%
5407 74 00	-- <i>Printed</i>	m ²	8%
	-- <i>Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton :</i>		
5407 81	-- <i>Unbleached or bleached :</i>		
	--- <i>Unbleached :</i>		
5407 81 11	--- Nylon georgette	m ²	8%
5407 81 12	--- Nylon sarees	m ²	8%
5407 81 13	--- Polyester shirtings	m ²	8%
5407 81 14	--- Polyester suitings	m ²	8%
5407 81 15	--- Terylene and dacron sarees	m ²	8%
5407 81 16	--- Polyester dhoti	m ²	8%
5407 81 19	--- Other	m ²	8%
	--- <i>Bleached :</i>		
5407 81 21	--- Nylon georgette	m ²	8%
5407 81 22	--- Nylon sarees	m ²	8%
5407 81 23	--- Polyester shirtings	m ²	8%
5407 81 24	--- Polyester suitings	m ²	8%
5407 81 25	--- Terylene and dacron sarees	m ²	8%
5407 81 26	--- Polyester dhoti	m ²	8%
5407 81 29	--- Other	m ²	8%
5407 82	-- <i>Dyed :</i>		
5407 82 10	--- Nylon georgette	m ²	8%
5407 82 20	--- Nylon sarees	m ²	8%
5407 82 30	--- Polyester shirtings	m ²	8%
5407 82 40	--- Polyester suitings	m ²	8%
5407 82 50	--- Terylene and dacron sarees	m ²	8%
5407 82 60	--- Lungies	m ²	8%
5407 82 90	--- Other	m ²	8%
5407 83 00	-- Of yarns of different colours	m ²	8%
5407 84	-- <i>Printed :</i>		
5407 84 10	--- Nylon georgette	m ²	8%
5407 84 20	--- Nylon sarees	m ²	8%
5407 84 30	--- Polyester shirtings	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5407 84 40	— Polyester suitings	m ²	8%
5407 84 50	— Terylene and dacron sarees	m ²	8%
5407 84 60	— Lungies	m ²	8%
5407 84 70	— Polyester sarees	m ²	8%
5407 84 90	— Other	m ²	8%
	— <i>Other woven fabrics :</i>		
5407 91	— <i>Unbleached or bleached :</i>		
5407 91 10	— Unbleached	m ²	8%
5407 91 20	— Bleached	m ²	8%
5407 92 00	— Dyed	m ²	8%
5407 93 00	— Of yarns of different colours	m ²	8%
5407 94 00	— Printed	m ²	8%
5408	WOVEN FABRICS OF ARTIFICIAL FILAMENT YARN, INCLUDING WOVEN FABRICS OBTAINED FROM MATERIALS OF HEADING 5405		
5408 10 00	— Woven fabrics obtained from high tenacity yarn of viscose rayon	m ²	8%
	— <i>Other woven fabrics, containing 85% or more by weight of artificial filament or strip or the like :</i>		
5408 21	— <i>Unbleached or bleached :</i>		
5408 21 10	— Unbleached	m ²	8%
5408 21 20	— Bleached	m ²	8%
5408 22	— <i>Dyed :</i>		
	— <i>Fabrics of rayon :</i>		
5408 22 11	— Rayon crepe fabrics	m ²	8%
5408 22 12	— Rayon jacquards	m ²	8%
5408 22 13	— Rayon brocades	m ²	8%
5408 22 14	— Rayon georgette	m ²	8%
5408 22 15	— Rayon tafetta	m ²	8%
5408 22 16	— Rayon suitings	m ²	8%
5408 22 17	— Rayon shirtings	m ²	8%
5408 22 18	— Rayon sarees	m ²	8%
5408 22 19	— Other	m ²	8%
5408 22 20	— Fabrics of continuous filament, other than rayon	m ²	8%
5408 22 90	— Other	m ²	8%
5408 23 00	— Of yarns of different colours	m ²	8%
5408 24	— <i>Printed :</i>		
	— <i>Ofrayon :</i>		
5408 24 11	— Rayon crepe fabrics	m ²	8%
5408 24 12	— Rayon jacquards	m ²	8%
5408 24 13	— Rayon brocades	m ²	8%
5408 24 14	— Rayon georgette	m ²	8%
5408 24 15	— Rayon tafetta	m ²	8%
5408 24 16	— Rayon suitings	m ²	8%
5408 24 17	— Rayon shirtings	m ²	8%
5408 24 18	— Rayon sarees	m ²	8%
5408 24 19	— Other	m ²	8%
5408 24 90	— Other	m ²	8%
	— <i>Other woven fabrics :</i>		
5408 31	— <i>Unbleached or bleached :</i>		
5408 31 10	— Unbleached	m ²	8%
5408 31 20	— Bleached	m ²	8%
5408 32	— <i>Dyed :</i>		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5408 32 11	<i>Fabrics of rayon :</i> Rayon brocades	m ²	8%
5408 32 12	Rayon georgette	m ²	8%
5408 32 13	Rayon tafetta	m ²	8%
5408 32 14	Rayon suitings	m ²	8%
5408 32 15	Rayon shirtings	m ²	8%
5408 32 19	Other	m ²	8%
5408 32 90	Other	m ²	8%
5408 33 00	Of yarns of different colours	m ²	8%
5408 34	<i>Printed :</i>		
5408 34 11	<i>Fabric of rayon :</i> Rayon crepe fabrics	m ²	8%
5408 34 12	Rayon jacquards	m ²	8%
5408 34 13	Rayon brocades	m ²	8%
5408 34 14	Rayon georgette	m ²	8%
5408 34 15	Rayon tafetta	m ²	8%
5408 34 16	Rayon suitings	m ²	8%
5408 34 17	Rayon shirtings	m ²	8%
5408 34 18	Rayon sarees	m ²	8%
5408 34 19	Other	m ²	8%
5408 34 20	Fabrics of continuous filament, other than rayon	m ²	8%
5408 34 90	Other	m ²	8%
5512	WOVEN FABRICS OF SYNTHETIC STAPLE FIBRES, CONTAINING 85% OR MORE BY WEIGHT OF SYNTHETIC STAPLE FIBRES		
5512 11	<i>Containing 85% or more by weight of polyester staple fibres :</i>		
5512 11 10	<i>Unbleached or bleached :</i> Unbleached	m ²	8%
5512 11 20	Bleached	m ²	8%
5512 19	<i>Other :</i>		
5512 19 10	Dyed	m ²	8%
5512 19 20	Printed	m ²	8%
5512 19 90	Other	m ²	8%
5512 21	<i>Containing 85% or more by weight of acrylic or modacrylic staple fibres :</i>		
5512 21 10	<i>Unbleached or bleached :</i> Unbleached	m ²	8%
5512 21 20	Bleached	m ²	8%
5512 29	<i>Other :</i>		
5512 29 10	Dyed	m ²	8%
5512 29 20	Printed	m ²	8%
5512 29 90	Other	m ²	8%
5512 91	<i>Other :</i> <i>Unbleached or bleached :</i>		
5512 91 10	Unbleached	m ²	8%
5512 91 20	Bleached	m ²	8%
5512 99	<i>Other :</i>		
5512 99 10	Dyed	m ²	8%
5512 99 20	Printed	m ²	8%
5512 99 90	Other	m ²	8%
5513	WOVEN FABRICS OF SYNTHETIC STAPLE FIBRES, CONTAINING LESS THAN 85% BY WEIGHT OF SUCH FIBRES, MIXED MAINLY OR SOLELY WITH COTTON, OF A WEIGHT NOT EXCEEDING 170 g/m ² <i>Unbleached or bleached :</i>		

Tariff Item		Description of goods	Unit	Rate of Additional Duty
(1)		(2)	(3)	(4)
5513 11	--	<i>Of polyester staple fibres, plain weave :</i>		
5513 11 10	---	Unbleached	m ²	8%
5513 11 20	---	Bleached	m ²	8%
5513 12	--	<i>3-thread or 4-thread twill, including cross twill, of polyester staple fibres :</i>		
5513 12 10	---	Unbleached	m ²	8%
5513 12 20	---	Bleached	m ²	8%
5513 13	--	<i>Other woven fabrics of polyester staple fibres :</i>		
5513 13 10	---	Unbleached	m ²	8%
5513 13 20	---	Bleached	m ²	8%
5513 19	--	<i>Other woven fabrics :</i>		
5513 19 10	---	Unbleached	m ²	8%
5513 19 20	---	Bleached	m ²	8%
	-	<i>Dyed :</i>		
5513 21 00	---	Of polyester staple fibres, plain weave	m ²	8%
5513 22 00	---	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5513 23 00	--	Other woven fabrics of polyester staple fibres	m ²	8%
5513 29 00	--	Other woven fabrics	m ²	8%
	-	<i>Of yarns of different colours :</i>		
5513 31 00	---	Of polyester staple fibres, plain weave	m ²	8%
5513 32 00	---	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5513 33 00	--	Other woven fabrics of polyester staple fibres	m ²	8%
5513 39 00	--	Other woven fabrics	m ²	8%
	-	<i>Printed :</i>		
5513 41 00	---	Of polyester staple fibres, plain weave	m ²	8%
5513 42 00	---	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5513 43 00	--	Other woven fabrics of polyester staple fibres	m ²	8%
5513 49 00	--	Other woven fabrics	m ²	8%
5514		WOVEN FABRICS OF SYNTHETIC STAPLE FIBRES, CONTAINING LESS THAN 85% BY WEIGHT OF SUCH FIBRES, MIXED MAINLY OR SOLELY WITH COTTON, OF A WEIGHT EXCEEDING 170 g/m ²		
	-	<i>Unbleached or bleached :</i>		
5514 11	--	<i>Of polyester staple fibres, plain weave :</i>		
5514 11 10	---	Unbleached	m ²	8%
5514 11 20	---	Bleached	m ²	8%
5514 12	--	<i>3-thread or 4-thread twill, including cross twill, of polyester staple fibres :</i>		
5514 12 10	---	Unbleached	m ²	8%
5514 12 20	---	Bleached	m ²	8%
5514 13	--	<i>Other woven fabrics of polyester staple fibres :</i>		
5514 13 10	---	Unbleached	m ²	8%
5514 13 20	---	Bleached	m ²	8%
5514 19	--	<i>Other :</i>		
5514 19 10	---	Unbleached	m ²	8%
5514 19 20	---	Bleached	m ²	8%
	-	<i>Dyed :</i>		
5514 21 00	---	Of polyester staple fibres, plain weave	m ²	8%
5514 22 00	---	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5514 23 00	--	Other woven fabrics of polyester staple fibres	m ²	8%

Tariff Item		Description of goods	Unit	Rate of Additional Duty
(1)		(2)	(3)	(4)
5514 29 00	--	Other woven fabrics	m ²	8%
	--	<i>Of yarns of different colours :</i>		
5514 31 00	--	Of polyester staple fibres, plain weave	m ²	8%
5514 32 00	--	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5514 33 00	--	Other woven fabrics of polyester staple fibres	m ²	8%
5514 39 00	--	Other woven fabrics	m ²	8%
	--	<i>Printed :</i>		
5514 41 00	--	Of polyester staple fibres, plain weave	m ²	8%
5514 42 00	--	3-thread or 4-thread twill, including cross twill, of polyester staple fibres	m ²	8%
5514 43 00	--	Other woven fabrics of polyester staple fibres	m ²	8%
5514 49 00	--	Other woven fabrics	m ²	8%
5515		OTHER WOVEN FABRICS OF SYNTHETIC STAPLE FIBRES		
	--	<i>Of polyester staple fibres :</i>		
5515 11	--	<i>Mixed mainly or solely with viscose rayon staple fibres :</i>		
5515 11 10	--	Unbleached	m ²	8%
5515 11 20	--	Bleached	m ²	8%
5515 11 30	--	Dyed	m ²	8%
5515 11 40	--	Printed	m ²	8%
5515 11 90	--	Other	m ²	8%
5515 12	--	<i>Mixed mainly or solely with man-made filaments :</i>		
5515 12 10	--	Unbleached	m ²	8%
5515 12 20	--	Bleached	m ²	8%
5515 12 30	--	Dyed	m ²	8%
5515 12 40	--	Printed	m ²	8%
5515 12 90	--	Other	m ²	8%
5515 13	--	<i>Mixed mainly or solely with wool or fine animal hair :</i>		
5515 13 10	--	Unbleached	m ²	8%
5515 13 20	--	Bleached	m ²	8%
5515 13 30	--	Dyed	m ²	8%
5515 13 40	--	Printed	m ²	8%
5515 13 90	--	Other	m ²	8%
5515 19	--	<i>Other :</i>		
5515 19 10	--	Unbleached	m ²	8%
5515 19 20	--	Bleached	m ²	8%
5515 19 30	--	Dyed	m ²	8%
5515 19 40	--	Printed	m ²	8%
5515 19 90	--	Other	m ²	8%
	--	<i>Of acrylic or modacrylic staple fibres :</i>		
5515 21	--	<i>Mixed mainly or solely with man-made filaments :</i>		
5515 21 10	--	Unbleached	m ²	8%
5515 21 20	--	Bleached	m ²	8%
5515 21 30	--	Dyed	m ²	8%
5515 21 40	--	Printed	m ²	8%
5515 21 90	--	Other	m ²	8%
5515 22	--	<i>Mixed mainly or solely with wool or fine animal hair :</i>		
5515 22 10	--	Unbleached	m ²	8%
5515 22 20	--	Bleached	m ²	8%
5515 22 30	--	Dyed	m ²	8%
5515 22 40	--	Printed	m ²	8%
5515 22 90	--	Other	m ²	8%
5515 29	--	<i>Other :</i>		
5515 29 10	--	Unbleached	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5515 29 20	--- Bleached	m ²	8%
5515 29 30	--- Dyed	m ²	8%
5515 29 40	--- Printed	m ²	8%
5515 29 90	--- Other	m ²	8%
	<i>Other woven fabrics :</i>		
5515 91	--- <i>Mixed mainly or solely with man-made filaments :</i>		
5515 91 10	--- Unbleached	m ²	8%
5515 91 20	--- Bleached	m ²	8%
5515 91 30	--- Dyed	m ²	8%
5515 91 40	--- Printed	m ²	8%
5515 91 90	--- Other	m ²	8%
5515 92	--- <i>Mixed mainly or solely with wool or fine animal hair :</i>		
5515 92 10	--- Unbleached	m ²	8%
5515 92 20	--- Bleached	m ²	8%
5515 92 30	--- Dyed	m ²	8%
5515 92 40	--- Printed	m ²	8%
5515 92 90	--- Other	m ²	8%
5515 99	--- <i>Other :</i>		
5515 99 10	--- Unbleached	m ²	8%
5515 99 20	--- Bleached	m ²	8%
5515 99 30	--- Dyed	m ²	8%
5515 99 40	--- Printed	m ²	8%
5515 99 90	--- Other	m ²	8%
5516	WOVEN FABRICS OF ARTIFICIAL STAPLE FIBRES		
	<i>Containing 85% or more by weight of artificial staple fibres :</i>		
5516 11	--- <i>Unbleached or bleached :</i>		
5516 11 10	--- Unbleached	m ²	8%
5516 11 20	--- Bleached	m ²	8%
5516 12 00	--- Dyed	m ²	8%
5516 13 00	--- Of yarns of different colours	m ²	8%
5516 14	--- <i>Printed :</i>		
5516 14 10	--- Spun rayon printed shantung	m ²	8%
5516 14 20	--- Spun rayon printed linen	m ²	8%
5516 14 90	--- Other	m ²	8%
	<i>Containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with man-made filaments :</i>		
5516 21	--- <i>Unbleached or bleached :</i>		
5516 21 10	--- Unbleached	m ²	8%
5516 21 20	--- Bleached	m ²	8%
5516 22 00	--- Dyed	m ²	8%
5516 23 00	--- Of yarns of different colours	m ²	8%
5516 24 00	--- Printed	m ²	8%
	<i>Containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with wool or fine animal hair :</i>		
5516 31	--- <i>Unbleached or bleached :</i>		
5516 31 10	--- Unbleached	m ²	8%
5516 31 20	--- Bleached	m ²	8%
5516 32 00	--- Dyed	m ²	8%
5516 33 00	--- Of yarns of different colours	m ²	8%
5516 34 00	--- Printed	m ²	8%
	<i>Containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with cotton:</i>		
5516 41	--- <i>Unbleached or bleached :</i>		
5516 41 10	--- Unbleached	m ²	8%

Tariff Item		Description of goods	Unit	Rate of Additional Duty
(1)		(2)	(3)	(4)
5516 41 20	—	Bleached	m ²	8%
5516 42 00	---	Dyed	m ²	8%
5516 43 00	--	Of yarns of different colours	m ²	8%
5516 44 00	--	Printed	m ²	8%
	-	<i>Other :</i>		
5516 91	--	<i>Unbleached or bleached :</i>		
5516 91 10	---	Unbleached	m ²	8%
5516 91 20	---	Bleached	m ²	8%
5516 92 00	--	Dyed	m ²	8%
5516 93 00	--	Of yarns of different colours	m ²	8%
5516 94 00	--	Printed	m ²	8%
5801		WOVEN PILE FABRICS AND CHENILLE FABRICS, OTHER THAN FABRICS OF HEADING 5802 OR 5806		
5801 10 00	-	Of wool	m ²	5%
	-	<i>Of cotton:</i>		
5801 21 00	--	Uncut weft pile fabrics	m ²	8%
5801 22	--	<i>Cut corduroy:</i>		
5801 22 10	---	Solely of cotton		
5801 22 90	---	Other	m ²	8%
5801 23 00	--	Other weft pile fabrics	m ²	8%
5801 24 00	--	Warp pile fabrics, 'epingle' (uncut)	m ²	8%
5801 25 00	--	Warp pile fabrics, cut	m ²	8%
5801 26 00	--	Chenille fabrics	m ²	8%
	-	<i>Of man-made fibres:</i>		
5801 31 00	--	Uncut weft pile fabrics	m ²	8%
5801 32 00	--	Cut corduroy	m ²	8%
5801 33 00	--	Other weft pile fabrics	m ²	8%
5801 34	--	<i>Warp pile fabrics, 'epingle' (uncut):</i>		
5801 34 10	---	Velvet	m ²	8%
5801 34 90	---	Other	m ²	8%
5801 35 00	--	Warp pile fabrics, cut	m ²	8%
5801 36	--	<i>Chenille fabrics:</i>		
5801 36 10	---	Corduroys	m ²	8%
5801 36 90	---	Other	m ²	8%
5802		TERRY TOWELLING AND SIMILAR WOVEN TERRY FABRICS, OTHER THAN NARROW FABRICS OF HEADING 5806; TUFTED TEXTILE FABRICS, OTHER THAN PRODUCTS OF HEADING 5703		
	-	<i>Terry towelling and similar woven terry fabrics, of cotton:</i>		
5802 11 00	--	Unbleached	m ²	8%
5802 19	--	<i>Other:</i>		
5802 19 10	---	Bleached	m ²	8%
5802 19 20	---	Piece dyed	m ²	8%
5802 19 30	---	Yarn dyed	m ²	8%
5802 19 40	---	Printed	m ²	8%
5802 19 90	---	Other	m ²	8%
5802 20 00	-	Terry towelling and similar woven terry- towelling fabrics of man-made fibres	m ²	8%
5802 30 00	-	Tufted textile fabrics	m ²	8%
5803		GAUZE, OTHER THAN NARROW FABRICS OF HEADING 5806		
5803 10	-	<i>Of cotton:</i>		
5803 10 10	---	Unbleached	m ²	8%
5803 10 20	---	Bleached	m ²	8%
5803 10 30	---	Piece dyed	m ²	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5803 10 40	Yarn dyed	m ²	8%
5803 10 50	Printed	m ²	8%
5803 10 90	Other	m ²	8%
5803 90	<i>Of other textile materials:</i>		
5803 90 10	Of silk or silk waste	m ²	8%
5803 90 20	Of synthetic fiber	m ²	8%
5803 90 30	Of artificial fibre	m ²	8%
5803 90 90	Other	m ²	8%
5804	LACE IN THE PIECE, IN STRIPS OR IN MOTIFS, OTHER THAN FABRICS OF HEADINGS 6002 TO 6006		
	<i>Mechanically made lace:</i>		
5804 21 00	Of man-made fibres	kg.	8%
5804 29	<i>Of other textile materials:</i>		
5804 29 10	Of cotton	kg.	8%
5806	NARROW WOVEN FABRICS (OTHER THAN TULLES, OTHER NET FABRICS AND GOODS OF HEADINGS 5807, 5808, 5809 AND 5811)		
5806 10 00	Woven pile fabrics (including terry towelling and similar terry fabrics) and chenille fabrics	kg.	Nil
5806 20 00	Other woven fabrics, containing by weight 5% or more of elastomeric yarn or rubber thread	kg.	Nil
	<i>Other woven fabrics:</i>		
5806 31	<i>Of cotton:</i>		
5806 31 10	Typewriter ribbon cloth	kg.	Nil
5806 31 20	Newar cotton	kg.	Nil
5806 31 90	Other	kg.	Nil
5806 32 00	Of man-made fibres	kg.	Nil
5806 39	<i>Of other textile materials:</i>		
5806 39 10	Goat hair puttis tape	kg.	Nil
5806 39 20	Jute webbing	kg.	Nil
5806 39 30	Other narrow fabrics of jute	kg.	Nil
5806 39 90	Other	kg.	Nil
5810	EMBROIDERY IN THE PIECE, IN STRIPS OR IN MOTIFS (MANUFACTURED WITH THE AID OF VERTICAL TYPE AUTOMATIC SHUTTLE EMBROIDERY MACHINES OPERATED WITH POWER):		
5810 10 00	Embroidery without visible ground	kg.	Nil
	<i>Other embroidery:</i>		
5810 91 00	Of cotton	kg.	Nil
5810 92	<i>Of man-made fibres:</i>		
5810 92 10	Embroidered badges, motifs and the like	kg.	Nil
5810 92 90	Other	kg.	Nil
5810 99 00	Of other textile materials	kg.	Nil
5901	TEXTILE FABRICS COATED WITH GUM OR AMYLACEOUS SUBSTANCES, OF A KIND USED FOR THE OUTER COVERS OF BOOKS OR THE LIKE; TRACING CLOTH; PREPARED PAINTING CANVAS; BUCKRAM AND SIMILAR STIFFENED TEXTILE FABRICS		
5901 10	<i>Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like:</i>		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
5901 10 10	— Of cotton	m ²	8%
5901 10 20	— Prepared painting canvas	m ²	8%
5901 10 90	— Other	m ²	8%
5901 90	— <i>Other:</i>		
5901 90 10	— Tracing cloth of cotton	m ²	8%
5901 90 20	— Varnished cambric fabrics (Empire fabrics) tapes	m ²	8%
5901 90 90	— Other	m ²	8%
5902	TYRE CORD FABRIC OF HIGH TENACITY YARN OF NYLON OR OTHER POLYAMIDES, POLYESTERS OR VISCOSE RAYON		
5902 10	— <i>Of nylon or other polyamides:</i>		
5902 10 10	— Impregnated with rubber	m ²	Rs.10 per Kg.
5902 10 90	— Other	m ²	Rs.10 per Kg.
5902 20	— <i>Of polyesters:</i>		
5902 20 10	— Impregnated with rubber	m ²	Rs.10 per Kg.
5902 20 90	— Other	m ²	Rs.10 per Kg.
5902 90	— <i>Other:</i>		
5902 30 10	— Impregnated with rubber	m ²	Rs.10 per Kg.
5902 30 90	— Other	m ²	Rs.10 per Kg.
5903	TEXTILE FABRICS, IMPREGNATED, COATED, COVERED OR LAMINATED WITH PLASTICS, OTHER THAN THOSE OF HEADING 5902		
5903 10	— <i>With polyvinyl chloride:</i>		
5903 10 10	— Imitation leather fabrics of cotton	m ²	5%
5903 10 90	— Other	m ²	5%
5903 20	— <i>With polyurethane:</i>		
5903 20 10	— Imitation leather fabrics, of cotton	m ²	5%
5903 20 90	— Other	m ²	5%
5903 90	— <i>Other:</i>		
5903 90 10	— Of cotton	m ²	5%
5903 90 20	— Polyethylene laminated jute fabrics	m ²	5%
5903 90 90	— Other	m ²	5%
5907	FABRICS COVERED PARTIALLY OR FULLY WITH TEXTILE FLOCKS, OR WITH PREPARATION CONTAINING TEXTILE FLOCKS:		
	— Fabrics covered partially or fully with textile flocks, or with preparation containing textile flocks:		
5907 00 11	— On the base fabrics of cotton	m ²	5%
5907 00 12	— On the base fabrics of man-made textile	m ²	5%
6001	PILE FABRICS, INCLUDING "LONG PILE" FABRICS AND TERRY FABRICS, KNITTED OR CROCHETED		
6001 10	— <i>"Long pile" fabrics:</i>		
6001 10 10	— Of cotton	kg.	8%
6001 10 20	— Of man-made fibres	kg.	8%
	— <i>Looped pile fabrics:</i>		
6001 21 00	— Of cotton	kg.	8%
6001 22 00	— Of man-made fibres	kg.	8%
	— <i>Other:</i>		
6001 91 00	— Of cotton	kg.	8%
6001 92 00	— Of man-made fibres	kg.	8%

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
6002	KNITTED OR CROCHETED FABRICS OF A WIDTH NOT EXCEEDING 30 CM, CONTAINING BY WEIGHT 5% OR MORE OF ELASTOMERIC YARN OR RUBBER THREAD, OTHER THAN THOSE OF HEADING 6001		
6002 40 00	- Containing by weight 5% or more of elastomeric yarn but not containing rubber thread	kg.	8%
6002 90 00	- Other	kg.	8%
6003	KNITTED OR CROCHETED FABRICS OF A WIDTH NOT EXCEEDING 30 CM, OTHER THAN THOSE OF HEADING 6001 OR 6002		
6003 10 00	- Of wool or fine animal hair	kg.	8%
6003 20 00	- Of cotton	kg.	8%
6003 30 00	- Of synthetic fibres	kg.	8%
6003 40 00	- Of artificial fibres	kg.	8%
6003 90 00	- Other	kg.	8%
6004	KNITTED OR CROCHETED FABRICS OF A WIDTH EXCEEDING 30 CM, CONTAINING BY WEIGHT 5% OR MORE OF ELASTOMERIC YARN OR RUBBER THREAD, OTHER THAN THOSE OF HEADING 6001		
6004 10 00	- Containing by weight 5% or more of elastomeric yarn but not containing rubber thread	kg.	8%
6004 90 00	- Other	kg.	8%
6005	WARP KNIT FABRICS (INCLUDING THOSE MADE ON GALLOON KNITTING MACHINES), OTHER THAN THOSE OF HEADINGS 6001 TO 6004		
	<i>Of cotton:</i>		
6005 21 00	-- Unbleached or bleached	kg.	8%
6005 22 00	-- Dyed	kg.	8%
6005 23 00	-- Of yarns of different colours	kg.	8%
6005 24 00	-- Printed	kg.	8%
	<i>Of synthetic fibres:</i>		
6005 31 00	-- Unbleached or bleached	kg.	8%
6005 32 00	-- Dyed	kg.	8%
6005 33 00	-- Of yarns of different colours	kg.	8%
6005 34 00	-- Printed	kg.	8%
	<i>Of artificial fibres:</i>		
6005 41 00	-- Unbleached or bleached	kg.	8%
6005 42 00	-- Dyed	kg.	8%
6005 43 00	-- Of yarns of different colours	kg.	8%
6005 44 00	-- Printed	kg.	8%
6006	OTHER KNITTED OR CROCHETED FABRICS		
	<i>Of cotton:</i>		
6006 21 00	-- Unbleached or bleached	kg.	8%
6006 22 00	-- Dyed	kg.	8%
6006 23 00	-- Of yarns of different colours	kg.	8%
6006 24 00	-- Printed	kg.	8%
	<i>Of synthetic fibres:</i>		
6006 31 00	-- Unbleached or bleached	kg.	8%
6006 32 00	-- Dyed	kg.	8%
6006 33 00	-- Of yarns of different colours	kg.	8%
6006 34 00	-- Printed	kg.	8%
	<i>Of artificial fibres:</i>		

Tariff Item	Description of goods	Unit	Rate of Additional Duty
(1)	(2)	(3)	(4)
6006 41 00	-- Unbleached or bleached	kg.	8%
6006 42 00	-- Dyed	kg.	8%
6006 43 00	-- Of yarns of different colours	kg.	8%
6006 44 00	-- Printed	kg.	8%

THE ELEVENTH SCHEDULE

(See section 118)

THE SCHEDULE

(See section 3)

NOTES

1. In this Schedule, "heading", "sub-heading", "tariff item" and "Chapter" mean respectively a heading, sub-heading, tariff item and Chapter in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply for the purposes of classification of goods specified in this Schedule.

S. No.	Description of goods
(1)	(2)
1.	Silk, that is to say, all goods falling within Chapter 50.
2.	Wool, that is to say, all goods falling within Chapter 51, other than fabrics of headings 5111, 5112 and 5113.
3.	Cotton, that is to say, all goods falling within Chapter 52.
4.	Man-made filaments, that is to say, all goods falling within Chapter 54.
5.	Man-made staple fibres, that is to say, all goods falling within Chapter 55.
6.	Terry towelling and similar woven terry fabrics, falling within heading 5802.
7.	Tulles and other net fabrics, not including woven, knitted or crocheted fabrics lace in the piece, in strips or in motifs, other than fabrics of headings 6002, 6003, 6004, 6005 and 6006.
8.	Knitted or crocheted fabrics, that is to say, all goods falling within Chapter 60.
9.	Metallised yarn, falling within heading 5605.
10.	Embroidery in the piece, in strips or in motifs, falling within heading 5810.

THE TWELFTH SCHEDULE

(See section 122)

THE SEVENTH SCHEDULE

(See section 136)

NOTES

1. In this Schedule, "tariff item", "heading", "sub-heading" and "Chapter" mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of this Schedule.

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
2106 90 20 --	Pan Masala	kg.	23%
2402 20 10 --	Other than filter cigarettes, of length not exceeding 60 millimetres	Tu	Rs. 20 per thousand
2402 20 20 --	Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	Tu	Rs. 60 per thousand
2402 20 30 --	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	Tu	Rs. 90 per thousand
2402 20 40 --	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	Rs. 145 per thousand
2402 20 50 --	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs. 190 per thousand
2402 20 90 --	Other	Tu	Rs. 235 per thousand
2402 90 10 --	Cigarettes of tobacco substitutes	Tu	Rs. 150 per thousand
2403 10 10 --	Hookah or gudaku tobacco	kg.	10%
2403 10 20 --	Smoking mixtures for pipes and cigarettes	kg.	45%
2403 10 31 --	Other than paper rolled biris, manufactured without the aid of machine	Tu	Rs. 1.00 per thousand
2403 10 39 --	Other	Tu	Rs. 2.00 per thousand
2403 10 90 --	Other	kg.	10%
2403 91 00 --	"Homogenised" or "reconstituted" tobacco	kg.	10%
2403 99 10 --	Chewing tobacco	kg.	10%
2403 99 20 --	Preparations containing chewing tobacco	kg.	10%
2403 99 30 --	Jarda scented tobacco	kg.	10%
2403 99 40 --	Snuff	kg.	10%
2403 99 50 --	Preparations containing snuff	kg.	10%
2403 99 60 --	Tobacco extracts and essence	kg.	10%
2403 99 90 --	Other	kg.	10%
2709 00 00	PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, CRUDE	kg.	Rs. 50 per tonne

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
5402 20	- <i>High tenacity yarn of polyesters :</i>		
5402 20 10	--- Of terylene dacron	kg.	1%
5402 20 90	--- Other	kg.	1%
5402 33 00	--- Of polyesters	kg.	1%
5402 42 00	--- Of polyesters, partially oriented	kg.	1%
5402 43 00	--- Of polyesters, other	kg.	1%
5402 52 00	--- Of polyesters	kg.	1%
5402 62 00	--- Of polyesters	kg.	1%
5406 10 00	--- Synthetic Filament Yarn of polyester	kg.	1%
8702 10	--- <i>With compression-ignition internal combustion piston engine (diesel or semi-diesel) :</i>		
	--- <i>Vehicles for transport of not more than 13 persons, including the driver :</i>		
8702 10 11	--- Integrated monocoque vehicle	u	1%
8702 10 12	--- Air-conditioned vehicle	u	1%
8702 10 19	--- Other	u	1%
8702 90	- <i>Other :</i>		
	--- <i>Vehicles for transport of not more than 13 persons, including the driver:</i>		
8702 90 11	--- Integrated monocoque vehicle	u	1%
8702 90 12	--- Air-conditioned vehicle	u	1%
8702 90 13	--- Electrically operated	u	1%
8702 90 19	--- Other	u	1%
8702 90 20	--- Electrically operated vehicles not elsewhere included or specified	u	1%
8703 10	- <i>Vehicles specially designed for travelling on snow; golf cars and similar vehicles :</i>		
8703 10 10	--- Electrically operated	u	1%
8703 10 90	--- Other	u	1%
	- <i>Other vehicles, with spark-ignition internal combustion reciprocating piston engine :</i>		
8703 21	--- <i>Of a cylinder capacity not exceeding 1,000 cc :</i>		
8703 21 10	--- Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 21 20	--- Three-wheeled vehicles	u	1%
	--- <i>Other :</i>		
8703 21 91	--- Motor cars	u	1%
8703 21 92	--- Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 21 99	--- Other	u	1%
8703 22	- <i>Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc:</i>		
8703 22 10	--- Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 22 20	--- Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 22 30	--- Three-wheeled vehicles	u	1%
	--- <i>Other :</i>		
8703 22 91	--- Motor cars	u	1%
8703 22 99	--- Other	u	1%
8703 23	- <i>Of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc :</i>		

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
8703 23 10 ---	Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 23 20 ---	Three-wheeled vehicles	u	1%
---	<i>Other :</i>		
8703 23 91 ---	Motor cars	u	1%
8703 23 92 ---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 23 99 ---	Other	u	1%
8703 24 ---	<i>Of a cylinder capacity exceeding 3,000 cc :</i>		
8703 24 10 ---	Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 24 20 ---	Three-wheeled vehicles	u	1%
---	<i>Other :</i>		
8703 24 91 ---	Motor cars	u	1%
8703 24 92 ---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 24 99 ---	Other	u	1%
-	<i>Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel) :</i>		
8703 31 ---	<i>Of a cylinder capacity not exceeding 1,500 cc :</i>		
8703 31 10 ---	Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 31 20 ---	Three-wheeled vehicles	u	1%
---	<i>Other :</i>		
8703 31 91 ---	Motor cars	u	1%
8703 31 92 ---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 31 99 ---	Other	u	1%
8703 32 ---	<i>Of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc :</i>		
8703 32 10 ---	Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 32 20 ---	Three-wheeled vehicles	u	1%
---	<i>Other :</i>		
8703 32 91 ---	Motor cars	u	1%
8703 32 92 ---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 32 99 ---	Other	u	1%
8703 33 ---	<i>Of a cylinder capacity exceeding 2,500 cc :</i>		
8703 33 10 ---	Vehicles principally designed for the transport of more than seven persons, including the driver	u	1%
8703 33 20 ---	Three-wheeled vehicles	u	1%
---	<i>Other :</i>		
8703 33 91 ---	Motor cars	u	1%
8703 33 92 ---	Specialised transport vehicles such as ambulances, prison vans and the like	u	1%
8703 33 99 ---	Other	u	1%
8703 90 ---	<i>Other :</i>		
8703 90 10 ---	Electrically operated	u	1%
8703 90 90 ---	Other	u	1%

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
8704	MOTOR VEHICLES FOR THE TRANSPORT OF GOODS		
8704 10	- <i>Dumpers designed for off-highway use:</i>		
8704 10 90	— Other (not including motor vehicles, other than petrol driven)	u	1%
	- <i>Other, with spark-ignition internal combustion piston engine :</i>		
8704 31	— <i>g.v.w. not exceeding 5 tonnes :</i>		
8704 31 10	— Refrigerated	u	1%
8704 31 90	— Other	u	1%
8704 32	— <i>g.v.w. exceeding 5 tonnes :</i>		
	— <i>Lorries and trucks:</i>		
8704 32 11	— Refrigerated	u	1%
8704 32 19	— Other	u	1%
8704 32 90	— Other	u	1%
8704 90	— <i>Other :</i>		
	— <i>Lorries and trucks :</i>		
8704 90 11	— Refrigerated	u	1%
8704 90 12	— Electrically operated	u	1%
8704 90 19	— Other	u	1%
8704 90 90	— Other	u	1%
	- <i>For the vehicles of heading 8702 :</i>		
8706 00 21	— For transport of not more than thirteen persons, including the driver	u	1%
	- <i>For the motor vehicles of heading 8703 :</i>		
8706 00 31	— For three-wheeled vehicles	u	1%
8706 00 39	— Other	u	1%
	- <i>For the vehicles of heading 8704 :</i>		
8706 00 43	— For dumpers covered in the heading 8704	u	1%
8706 00 49	— Other	u	1%
8711 10	- <i>With reciprocating internal combustion piston engine of a cylinder capacity not exceeding 50 cc:</i>		
8711 10 10	— Mopeds	u	1%
8711 10 20	— Motorised cycles	u	1%
8711 10 90	— Other	u	1%
8711 20	- <i>With reciprocating internal combustion piston engine of a cylinder capacity exceeding 50 cc but not exceeding 250 cc :</i>		
	— <i>Scooters :</i>		
8711 20 11	— Of cylinder capacity not exceeding 75 cc	u	1%
8711 20 19	— Other	u	1%
	— <i>Motor cycles :</i>		
8711 20 21	— Of cylinder capacity not exceeding 75 cc	u	1%
8711 20 29	— Other	u	1%
	— <i>Mopeds :</i>		
8711 20 31	— Of cylinder capacity not exceeding 75 cc	u	1%
8711 20 39	— Other	u	1%
	— <i>Other :</i>		
8711 20 91	— Of cylinder capacity not exceeding 75 cc	u	1%

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
8711 20 99 —	Other	u	1%
8711 30 -	<i>With reciprocating internal combustion piston engine of cylinder capacity exceeding 250 cc but not exceeding 500 cc :</i>		
8711 30 10 —	Scooters	u	1%
8711 30 20 —	Motor-cycles	u	1%
8711 30 90 —	Other	u	1%
8711 40 -	<i>With reciprocating internal combustion piston engine of a cylinder capacity exceeding 500 cc but not exceeding 800 cc :</i>		
8711 40 10 —	Motor-cycles	u	1%
8711 40 90 —	Other	u	1%
8711 50 00 -	<i>With reciprocating internal combustion piston engine of a cylinder capacity u exceeding 800 cc</i>		1%.

Sd/-

T. K. Viswanathan,
Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th August, 2005.

No. RPB/19/2005Act-15-05/E:—The following Act of Parliament is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th April, 2005/Chaitra 15, 1927(Saka)

The following Act of Parliament received the assent of the President on the 4th April, 2005 is hereby published for general information:—

THE PATENTS (AMENDMENT) ACT, 2005

(15 of 2005)

AN ACT

(4th April, 2005)

further to amend the Patents Act, 1970

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Patents (Amendment) Act, 2005.

(2) Sub-clause (ii) of clause (a), and clause (b), of section 37, sections 41, 42, 47, 59 to 63 (both inclusive) and 74 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of January, 2005.

Short title
and
commence-
ment

Amendment of
Section 2.

2. In Section 2 of the Patents Act, 1970 (hereinafter referred to as the principal Act), in sub-section (1),—

39 of 1970.

(a) after clause (ab), the following clause shall be inserted, namely:—

“(aba) “Budapest Treaty” means the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure done at Budapest on 28th day of April, 1977, as amended and modified from time to time;”;

(b) in clause (d), for the words, brackets and figures “notified as such under sub-section (1) of section 133”, the words and figures “referred to as a convention country in section 133” shall be Substituted;

(c) clause (g) shall be omitted;

(d) in clause (h),—

(i) in sub-clause (iii), after the words and figures “the Companies Act, 1956”, the word “;or” shall be inserted;

1 of 1956.

(ii) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) by an institution wholly or substantially financed by the Government;”;

(iii) the words “and includes the Council of Scientific and Industrial Research and any other institution which is financed wholly or for the major part by the said Council,” shall be omitted;

(e) for clause (i), the following clause shall be substituted, namely:—

“(i) “High Court”, in relation to a State or Union territory, means the High Court having territorial jurisdiction in that State or Union territory, as the case may be;”;

(f) for clause (ja), the following clause shall be substituted, namely:—

“(ja) “inventive step” means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art;”;

(g) for clauses (l) and (m), the following clauses shall be substituted, namely:—

(l) “new invention” means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art;

(la) “Opposition Board” means an Opposition Board constituted under sub-section (3) of section 25;

(m) “patent” means a patent for any invention granted under sub-section (3) of section 25;

(h) after clause (t), the following clause shall be inserted, namely:—

'(ta) "pharmaceutical substance" means any new entity involving one or more inventive steps;'

3. In section 3 of the principal Act, for clause (d), the following shall be substituted, namely:—

Amendment of
Section 3.

"(d) the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

Explanation.—For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;".

4. Section 5 of the principal Act shall be omitted.

Omission of
section 5.
Amendment of
section 7.

5. In section 7 of the principal Act,—

(a) after sub-section (IA), the following sub-section shall be inserted namely:—

"(IB) The filing date of an application referred to in sub-section (IA) and its complete specification processed by the patent office as designated office or elected office shall be the international filing date accorded under the Patent Cooperation Treaty.";

(b) in sub-section (3), for the word "owner", the word "person" shall be substituted;

(c) for sub-section (4), the following sub-section shall be substituted namely:—

"(4) Every such application (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) shall be accompanied by a provisional or a complete specification."

6. In section 8 of the principal Act,—

Amendment of
Section 8.

(a) in sub-section (1),—

(i) for the words "within such period as the Controller may, for good and sufficient reasons, allow", the words "within the prescribed period as the Controller may allow" shall be substituted;

(ii) in clause (b); for the words "up to the date of the acceptance of his complete specification filed in India", the words "up to the date of grant of patent in India" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) At any time after an application for patent is filed in India and till the grant of a patent or refusal to grant of a patent made thereon, the Controller may also require the applicant to furnish details, as may be prescribed, relating to the processing of the application in a country outside India, and in that event the applicant shall furnish to the Controller information available to him within such period as may be prescribed."

Amendment of
Section 9.

7. In section 9 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a provisional specification, a complete specification shall be filed within twelve months from the date of filing of the application, and if the complete specification is not so filed, the application shall be deemed to be abandoned.”;

(b) in sub-section (2), the following proviso shall be inserted at the end, namely:—

“Provided that the period of time specified under sub-section (1) shall be reckoned from the date of filing of the earliest provisional specification.”;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a specification purporting to be a complete specification, the Controller may, if the applicant so requests at any time within twelve months from the date of filing of the application, direct that such specification shall be treated, for the purposes of this Act, as a provisional specification and proceed with the application accordingly.”;

(d) in sub-section (4), for the words “the acceptance of the complete specification”, the words “grant of patent” shall be substituted.

8. In section 10 of the principal Act,—

(a) in sub-section (3), for the words “before the acceptance of the application”, the words “before the application is found in order for grant of a patent” shall be substituted;

(b) in sub-section (4), in the proviso,—

(i) in clause (ii), for the words “the material to an authorised depository institution as may be notified by the Central Government in the Official Gazette”, the words “the material to an international depository authority under the Budapest Treaty” shall be substituted;

(ii) for sub-clause (A), the following sub-clause shall be substituted, namely:—

“(A) the deposit of the material shall be made not later than the date of filing the patent application in India and a reference thereof shall be made in the specification within the prescribed period.”;

(c) for sub-section (4A), the following sub-section shall be substituted, namely:—

“(4A), In case of an international application designating India, the title, description, drawings, abstract and claims filed with

Amendment
of Section
10.

the application shall be taken as the complete specification for the purposes of this Act.”.

9. In section 11 of the principal Act,—

Amendment
of Section
11.

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where a complete specification based on a previously filed application in India has been filed within twelve months from the date of that application and the claim is fairly based on the matter disclosed in the previously filed application, the priority date of that claim shall be the date of the previously filed application in which the matter was first disclosed.”;

(b) in sub-section (6), after the brackets and figure “(3),” the brackets, figure and letter “(3A),” shall be inserted.

10. In section 11A of the principal Act,—

Amendment
of Section
11A.

(a) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:—

“(1) Save as otherwise provided, no application for patent shall ordinarily be open to the public for such period as may be prescribed.

(2) The applicant may, in the prescribed manner, request the Controller to publish his application at any time before the expiry of the period prescribed under sub-section (1) and subject to the provisions of sub-section (3), the Controller shall publish such application as soon as possible.

(3) Every application for a patent shall on the expiry of the period specified under sub-section (1), be published, except in cases where the application—

(a) in which secrecy direction is imposed under section 35 ; or

(b) has been abandoned under sub-section (1) of section 9; or

(c) has been withdrawn three months prior to the period specified under sub-section (1).”;

(b) in sub-section (4), for the words “of eighteen months”, the words, brackets and figure “prescribed under sub-section (1)” shall be substituted ;

(c) after sub-section (6), the following sub-section shall be inserted, namely :—

“(7) On and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application :

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted :

Provided further that the rights of a patentee in respect of applications made under sub-section (2) of section 5, before the 1st day of January, 2005 shall accrue from the date of grant of the patent :

Provided also that after a patent is granted in respect of applications made under sub-section (2) of section 5, the patent-holder shall only be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to the 1st day of January, 2005 and which continue to manufacture the product covered by the patent on the date of grant of the patent and no infringement proceeding shall be instituted against such enterprises.”.

11. In section 11B of the principal Act,—

Amendment
of Section
11B.

(a) for sub-sections (1), the following sub-sections shall be substituted, namely:—

“(1) No application for a patent shall be examined unless the applicant or any other interested person makes a request in the prescribed manner for such examination within the prescribed period.”;

(b) sub-section (2) shall be omitted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) In case of an application in respect of a claim for a patent filed under sub-section (2) of section 5 before the 1st day of January, 2005 a request for its examination shall be made in the prescribed manner and within the prescribed period by the applicant or any other interested person.”;

(d) in sub-section (4),—

(i) the words, brackets and figure “or sub-section (2)” shall be omitted;

(ii) for the proviso, the following proviso, shall be substituted, namely:—

“Provided that—

(i) the applicant may, at any time after filling the application but before the grant of a patent, withdraw the application by making a request in the prescribed manner; and

(ii) in a case where secrecy direction has been issued under section 35, the request for examination may be made within the prescribed period from the date of revocation of the secrecy direction.”.

Amendment
of Section
12.

12. In section 12 of the principal Act,—

(a) in sub-sections (1), for the words, brackets, figures and letter “under sub-section (1) or sub-section (2) or sub-section (3) of section 11B, the application and specification and other documents shall be referred to by the Controller”, the words, brackets, figures and letter “under sub-section (1) or sub-section (3) of section 11B, the application and specification and other documents related thereto shall be referred at the earliest by the Controller” shall be substituted;

(b) in sub-section (2), for the words "a period of eighteen months from the date of such reference", the words "such period as may be prescribed" shall be substituted.

13. In section 13 of the principal Act, in sub-section (3), for the words "it has been accepted", the words "the grant of a patent" shall be substituted.

Amendment of
Section 13.

14. For sections 14 and 15 of the principal Act, the following sections shall be substituted, namely:—

Substitution of
new section for
section 14
and 15.
Consideration
of report of
examiner by
Controller.

"14. Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, the Controller, before proceeding to dispose of the application in accordance with the provisions hereinafter appearing, shall communicate as expeditiously as possible the gist of the objections to the applicant and shall, if so required by the applicant within the prescribed period, give him an opportunity of being heard.

Power of
Controller to
refuse or require
amended
applications, etc.,
in certain cases.

15. Where the Controller is satisfied that the application or any specification or any other document filed in pursuance hereof does not comply with the requirements of this Act or of any rules made thereunder, the Controller may refuse the application or may require the application, specification or the other documents, as the case may be, to be amended to his satisfaction before he proceeds with the application and refuse the application on failure to do so."

Amendment of
Section 16.

15. In section 16 of the principal Act,—

(a) in sub-section (1), for the words "before the acceptance of the complete specification", the words "before the grant of the patent" shall be substituted;

(b) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"*Explanation.*—For the purposes of this Act, the further application and the complete specification accompanying it shall be deemed to have been filed on the date on which the first mentioned application had been filed, and the further application shall be proceeded with as a substantive application and be examined when the request for examination is filed within the prescribed period."

Amendment of
Section 17.

16. In section 17 of the principal Act, in sub-section (3), for the words "before acceptance of the complete specification", the words "before the grant" shall be substituted.

Amendment of
Section 18.

17. In section 18 of the principal Act,—

(a) in sub-section (1), for the words "to accept the complete specification", the words "the application" shall be substituted;

(b) sub-section (4) shall be omitted.

Amendment of
Section 19.

18. In section 19 of the principal Act, in sub-section (1), for the words and figures "by the foregoing provisions of this Act or proceeding under section 25", the words "under this "Act" shall be substituted;

Substitution of
new section for
section 21.

Time for putting
application in
order for grant.

19. For section 21 of the principal Act, the following section shall be substituted, namely:—

"21. (1) An application for a patent shall be deemed to have been abandoned unless, within such period as may be prescribed, the application has complied with all the requirements imposed on him by or under this act, whether in connection with the complete specification or otherwise in relation to the application from the date on which the first statement of objections to the application or complete specification or other documents related thereto is forwarded to the applicant by the Controller.

Explanation.—Where the application for a patent or any specification or, in the case of a convention application or an application filed under the Patent Cooperation Treaty designating India any document filed as part of the application has been returned to the applicant by the Controller in the course of the proceedings, the applicant shall not be deemed to have complied with such requirements unless and until he has refiled it or the applicant proves to the satisfaction of the Controller that for the reasons beyond his control such document could not be re-filed.

(2) If at the expiration of the period as prescribed under sub-section (1),—

(a) an appeal to the High Court is pending in respect of the application for the patent for the main invention; or

(b) in the case of an application for a patent of addition, an appeal to the High Court is pending in respect of either that application or the application for the main invention, the time within which the requirements of the Controller shall be complied with shall, on an application made by the applicant before the expiration of the period as prescribed under sub-section (1), be extended until such date as the High Court may determine.

(3) If the time within which the appeal mentioned in sub-section (2) may be instituted has not expired, the Controller may extend the period as prescribed under sub-section (1), to such further period as he may determine.

Provided that if an appeal has been filed during the said further period, and the High Court has granted any extension of time for complying with the requirements of the Controller, then the requirements may be complied with within the time granted by the Court."

20. Section 22 to 24 of the principal Act shall be omitted.

21. Chapter IVA of the principal Act shall be omitted.

22. In Chapter V of the principal Act, for the Chapter heading "OPPOSITION TO GRANT OF PATENT" the Chapter heading "OPPOSITION PROCEEDINGS TO GRANT OF PATENTS" shall be substituted.

Omission of
sections 22
to 24.

Omission of
Chapter IVA.

Substitution
of new
heading for
heading of
Chapter V.

23. For section 25 and 26 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 25 and 26.

“25. (1) Where an application for a patent has been published but a patent has not been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent on the ground—

(a) that the applicant for the patent or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims ;

(b) that the invention so far as claimed of the complete specification has been published before the priority date of the claim—

Opposition to the patent.

(i) in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an anticipation of the invention by virtue of sub-section (2) or sub-section (3) of section 29;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the applicant's claim and filed in pursuance of an application for a patent in India, being a claim of which the priority date is earlier than that of the applicant's claim;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India before the priority date of that claim.

Explanation.—For the purposes of this clause, an invention relating to a process for which a patent is claimed shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only;

(e) that the invention so far as claimed in any claim of the complete specification is obvious and clearly does not involve any inventive step, having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the applicant's claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed ;

(h) that the applicant has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge ;

(i) that in the case of convention application, the application was not made within twelve months from the date of the first application for protection for the invention made in a convention country by the applicant or a person from whom he derives title ;

(j) that the complete specification does not disclose or wrongly mentions the source or geographical origin of biological material used for the invention ;

(k) that the invention so far as claimed in any claim of the complete specification is anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere,

but on no other ground and the Controller shall, if requested by such person for being heard, hear him and dispose of such representation in such manner and within such period as may be prescribed.

(2) At any time after the grant of patent but before the expiry of a period of one year from the date of publication of grant of a patent, any person interested may give notice of opposition to the controller in the prescribed manner on any of the following grounds, namely:—

(a) that the patentee or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims ;

(b) that the invention so far as claimed in any claim of the complete specification has been published before the priority date of the claim—

(i) in any specification filed in pursuance of an application for a patent made in India or or after the 1st day of January, 1912 ; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an anticipation of the invention by virtue of sub-section (2) or sub-section (3) of section 29 ;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the claim of the patentee and filed in pursuance of an application for a patent in India; being a claim of which the priority date is earlier than that of the claim of the patentee;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India before the priority date of that claim.

Explanation.—For the purposes of this clause, an invention relating to a process for which a patent is granted shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only.

(e) that the invention so far as claimed in any claim of the complete specification is obvious and clearly does not involve any inventive step,

having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed;

(h) that the patentee has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge;

(i) that in the case of a patent granted on convention application, the application for patent was not made within twelve months from the date of the first application for protection for the invention made in a convention country or in India by the patentee or a person from whom he derives title;

(j) that the complete specification does not disclose or wrongly mentions the source and geographical origin of biological material used for the invention;

(k) that the invention so far as claimed in any claim of the complete specification was anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere, but on no other ground.

(3) (a) Where any such notice of opposition is duly given under sub-section (2), the Controller shall notify the patentee.

(b) On receipt of such notice of opposition, the Controller shall, by order in writing, constitute a Board to be known as the Opposition Board consisting of such officers as he may determine and refer such notice of opposition along with the documents to that Board for examination and submission of its recommendations to the Controller.

(c) Every Opposition Board constituted under clause (b) shall conduct the examination in accordance with such procedure as may be prescribed.

(4) On receipt of the recommendation of the Opposition Board and after giving the patentee and the opponent an opportunity of being heard, the Controller shall order either to maintain or to amend or to revoke the patent.

(5) While passing an order under sub-section (4) in respect of the ground mentioned in clause (d) or clause (e) of sub-section (2), the Controller shall not take into account any personal document or secret trial or secret use.

(6) In case the Controller issues an order under sub-section (4) that the patent shall be maintained subject to amendment of the specification or any other document, the patent shall stand amended accordingly.

(26). (1) Where in any opposition proceeding under this Act the Controller finds that—

(a) the invention, so far as claimed in any claim of the complete specification, was obtained from the opponent in the manner set out in clause (a) of sub-section (2) of section 25 and revokes the

In cases of
"obtaining"
Controller
may treat the
patent as the
patent of
opponent.

patent on that ground, he may, on request by such opponent made in the prescribed manner, direct that the patent shall stand amended in the name of the opponent;

(b) a part of an invention described in the complete specification was so obtained from the opponent, he may pass an order requiring that the specification be amended by the exclusion of that part of the invention.

(2) Where an opponent has, before the date of the order of the Controller requiring the amendment of a complete specification referred to in clause (b) of sub-section (1), filed an application for a patent for an invention which included the whole or a part of the invention held to have been obtained from him and such application is pending, the Controller may treat such application and specification in so far as they relate to the invention held to have been obtained from him, as having been filed, for the purposes of this Act relating to the priority dates of claims of the complete specification, on the date on which the corresponding document was or was deemed to have been filed by the patentee in the earlier application but for all other purposes the application of the opponent shall be proceeded with as an application for a patent under this Act.”

Omission of
section 27.

24. Section 27 of the principal Act shall be omitted.

Amendment
of section
28.

25. In section 28 of the principal Act,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) A request or claim under the foregoing provisions of this section shall be made before the grant of patent.”;

(b) sub-section (5) shall be omitted;

(c) in sub-section (6), for the words, brackets and figure “Subject to the provisions of sub-section (5), where”, the word “Where” shall be substituted.

Amendment
of section 31.

26. In section 31 of the principal Act, for the words “not letter than six months”, the words “not later than twelve months” shall be substituted.

Amendment
of section 34.

27. In section 34 of the principal Act, the words “to accept complete specification” for a patent or” shall be omitted;

Amendment
of section 35.

28. In section 35 of the principal Act, in sub-section (3), for the words “acceptance of complete specification”, the words “grant of patent” shall be substituted.

Amendment
of section 36.

29. In section 36 of the principal Act, in sub-section (1), for the words “twelve months”, the words “six months” shall be substituted.

Amendment
of section 37.

30. In section 37 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words “to accept”, the words “to grant” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the application may, subject to the directions, proceed

up to the stage of grant of the patent, but the application and the specification found to be in order for grant of the patent shall not be published, and no patent shall be granted in pursuance of that application.”;

(b) in sub-section (2), for the words “is accepted”, the words “is found to be in order for grant of the patent” shall be substituted.

31. For section 39 of the Principal Act, the following section shall be substituted, namely:—

“39. (1) No person resident in India shall, except under the authority of a written permit sought in the manner prescribed and granted by or on behalf of the Controller, make or cause to be made any application outside India for the grant of a patent for an invention unless—

Substitution of new section for section 39. Resident not to apply for patents outside India without prior permission.

(a) an application for a patent for the same invention has been made in India, not less than six weeks before the application outside India; and

(b) either no direction has been given under sub-section (1) of section 35 in relation to the application in India, or all such directions have been revoked.

(2) The Controller shall dispose of every such application within such period as may be prescribed :

Provided that if the invention is relevant for defence purpose or atomic energy, the Controller shall not grant permit without the prior consent of the Central Government.

(3) This section shall not apply in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India.”.

32. In Chapter VIII of the principal Act, for the Chapter heading “GRANT AND SEALING OF PATENTS AND RIGHTS CONFERRED THEREBY”, the Chapter heading “GRANT OF PATENTS AND RIGHTS CONFERRED THEREBY” shall be substituted.

Substitution of heading of Chapter VIII.

33. For section 43 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 43. Grant of patents.

“43. (1) Where an application for a patent has been found to be in order for grant of the patent and either—

(a) the application has not been refused by the Controller by virtue of any power vested in him by this Act; or

(b) the application has not been found to be in contravention of any of the provisions of this Act,

the patent shall be granted as expeditiously as possible to the applicant or, in the case of a joint application, to the applicants jointly, with the seal of the patent office and the date on which the patent is granted shall be entered in the register.

(2) On the grant of patent, the Controller shall publish the fact that the patent has been granted and thereupon the application, specification and other documents related thereto shall be open for public inspection.”.

Amendment of section 44.

34. In section 44 of the principal Act, for the word “sealed”, at both the places where it occurs, the word “granted” shall be substituted.

Amendment of section 45.

35. In section 45 of the principal Act, in sub-section (3), for the words “the date of advertisement of the acceptance of the complete specification”,

the words "the date of publication of the application" shall be substituted.

Amendment of
section 48.

36. In section 48 of the principal Act, the proviso shall be omitted.

Amendment of
section 52.

37. In section 52 of the principal Act,—

(a) In sub-section (1),—

(i) for the opening words "Where a patent has been revoked", the words and figures "Where the patent has been revoked under section 64" shall be substituted;

(ii) for the word "court", wherever it occurs, the words "Appellate Board or court" shall be substituted;

(b) in sub-section (2), for the word "court", occurring at both the places, the words "Appellate Board or court" shall be substituted.

Amendment of
section 53.

38. In section 53 of the principal Act,—

(a) after sub-section (1), the following *Explanation* shall be inserted, namely:—

"Explanation.—For the purposes of this sub-section, the term of patent in case of International applications filed under the Patent Cooperation Treaty designating India, shall be twenty years from the international filing date accorded under the Patent Cooperation Treaty.";

(b) in sub-section (2), for the words "or within that period as extended under this section", the words "or within such extended period as may be prescribed" shall be substituted;

(c) sub-section (3) shall be omitted.

Amendment of
section 54.

39. In section 54 of the principal Act,—

(a) In sub-section (3), for the words "complete specification", occurring at both the places, the word "application" shall be substituted;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A patent of addition shall not be granted before grant of the patent for the main invention."

Amendment of
section 57.

40. In section 57 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Any application for leave to amend an application for a patent or a complete specification or a document related thereto under this section made after the grant of patent and the nature of the proposed amendment may be published. ";

(b) in sub-section (4),—

(i) for the word "advertised", the word "published" shall be substituted;

(ii) for the word "advertisement", the word "publication" shall be substituted;

(c) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The provisions of this section shall be without prejudice to the right of an applicant for a patent to amend his specification or any other document related thereto to comply with the directions of the Controller issued before the grant of a patent.

41. For section 58 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 58.

“58.(1) In any proceeding before the Appellate Board or the High Court for the revocation of a patent, the Appellate Board or the High Court, as the case may be, may, subject to the provisions contained in section 59, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise, as the Appellate Board or the High Court may think fit, and if in any proceedings for revocation the Appellate Board or the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

Amendment
of
specification
before
Appellate
Board or
High Court.

(2) Where an application for an order under this section is made to the Appellate Board or the High Court, the applicant shall give notice of the application to the Controller, and the Controller shall be entitled to appear and be heard, and shall appear if so directed by the Appellate Board or the High Court.

(3) Copies of all orders of the Appellate Board or the High Court allowing the patentee to amend the specification shall be transmitted by the Appellate Board or the High Court to the Controller who shall, on receipt thereof, cause an entry thereof and reference thereto to be made in the register.”

42. In section 59 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section 59.

“(2) Where after the date of grant of patent any amendment of the specification or any other documents related thereto is allowed by the Controller or by the Appellate Board or the High Court, as the case may be,—

(a) the amendment shall for all purposes be deemed to form part of the specification along with other documents related thereto;

(b) the fact that the specification or any other documents related thereto has been amended shall be published as expeditiously as possible; and

(c) the right of the applicant or patentee to make amendment shall not be called in question except on the ground of fraud.”

43. In section 60 of the principal Act, in sub-section (1), for the words, brackets and figures “prescribed period or within that period as extended under sub-section (3) of section 53”, the words, figures and brackets “period prescribed under section 53 or within such period as may be allowed under sub-section (4) of section 142” shall be substituted.

Amendment
of section 60.

Amendment
of section 61.

44. In section 61 of the principal Act, in sub-section (1), for the words "advertise the application", the words "publish the application" shall be substituted.

Amendment
of section 62.

45. In section 62 of the principal Act,—

(a) in sub-section (1), for the word "advertisement", the word "publication" shall be substituted;

(b) in sub-section (2), for the words "date of the advertisement", the words "date of publication" shall be substituted.

Amendment
of section 63.

46. In section 63 of the principal Act,—

(a) in sub-section (2), for the word "advertise", the word "publish" shall be substituted;

(b) in sub-section (3), for the words "such advertisement", the words "such publication" shall be substituted.

Amendment
of section 64.

47. In section 64 of the principal Act, in sub-section (1), for the words "on the petition of any person interested or of the Central Government or on a counter-claim in a suit for infringement of the patent, be revoked by the High Court", the words "be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court" shall be substituted.

Substitution
of new
section for
section 65.

48. For section 65 of the principal Act, the following section shall be substituted, namely:—

Revocation
of patent or
amendment
of complete
specification
on directions
from
Government
in cases
relating to
atomic
energy.

"65 (1) Where at any time after grant of a patent, the Central Government is satisfied that a patent is for an invention relating to atomic energy for which no patent can be granted under sub-section (1) of section 20 of the Atomic Energy act, 1962, it may direct the Controller to revoke the patent, and thereupon the Controller, after giving notice, to the patentee and every other person whose name has been entered in the register as having an interest in the patent, and after giving them an opportunity of being heard, may revoke the patent.

33 of 1962.

(2) In any proceedings under sub-section (1), the Controller may allow the patentee to amend the complete specification in such manner as he considers necessary instead of revoking the patent."

Substitution
of new
section for
section 68.

49. For section 68 of the principal Act, the following section shall be substituted, namely:—

Assignments,
etc., not to
be valid
unless in
writing and
duly
executed.
Amendment
of section 74.

"68. An assignment of a patent or of a share in a patent, a mortgage, licence or the creation of any other interest in a patent shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations and duly executed."

50. In section 74 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Central Government may, by notification in the Official Gazette, specify the name of the Patent Office."

51. In section 78 of the principal Act,—

Amendment
of section 78.

(a) in sub-section (4), for the words “advertised”, the word “published” shall be substituted;

(b) in sub-section (5), for the words “such advertisement”, the words “such publication” shall be substituted.

52. In section 84 of the principal Act,—

Amendment
of section 84.

(a) in sub-section (1), for the word “sealing”, the word “grant” shall be substituted;

(b) in sub-section (6), the following *Explanation* shall be inserted at the end, namely:—

‘Explanation.—For the purposes of clause (iv), “reasonable period” shall be construed as a period not ordinarily exceeding a period of six months.’.

53. In section 87 of the principal Act, in sub-section (1), for the words “shall advertise the application in the Official Gazette”, the words “shall publish the application in the official journal” shall be substituted.

Amendment
of section 87.

54. In section 90 of the principal Act, in sub-section (1), for clause (vii) the following clauses shall be substituted, namely:—

Amendment
of section 90.

“(vii) that the licence is granted with a predominant purpose of supply in the Indian market and that the licensee may also export the patented product, if need be in accordance with the provisions of sub-clause (iii) of clause (a) of sub-section (7) of section 84;

(viii) that in the case of semi-conductor technology, the licence granted is to work the invention for public non-commercial use;

(ix) that in case the licence is granted to remedy a practice determined after judicial or administrative process to be anti-competitive, the licensee shall be permitted to export the patented product, if need be.”.

Insertion of
new section
92A.

55. After section 92 of the principal Act, the following section shall be inserted, namely:—

‘92A.(1) Compulsory licence shall be available for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems, provided compulsory licence has been granted by such country or such Country has, by notification or otherwise, allowed importation of the patented pharmaceutical products from India.

Compulsory
licence for
export of
patented
pharmaceutical
products in
certain
exceptional
circumstances.

(2) The Controller shall, on receipt of an application in the prescribed manner, grant a compulsory licence solely for manufacture and export of the concerned pharmaceutical product to such Country under such terms and conditions as may be specified and published by him.

(3) The provisions of sub-sections (1) and (2) shall be without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under any other provision of this Act.

Explanation.—For the purposes of this section, “pharmaceutical products” means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address public health problems and shall be inclusive of ingredients necessary for their manufacture and diagnostic kits required for their use.’.

Amendment
of section
100.

Amendment
of section
100.

56. In section 100 of the principal Act, in sub-section (3), for the words "the acceptance of the complete specification in respect of the patent", the words "grant of the patent" shall be substituted.

Amendment
of section
105.

57. In section 105 of the principal Act, in sub-section (4), for the words "after the date of advertisement of acceptance of the complete specification of a patent", the words "after the publication of grant of a patent" shall be substituted.

Amendment
of section
107A.

58. In section 107A of the principal Act,—

(a) in clause (a),—

(i) for the words "using or selling", the words "using, selling or importing" shall be substituted;

(ii) for the words "use or sale," the words "use, sale or import" shall be substituted;

(b) in clause (b), for the words "who is duly authorised by the patentee to sell or distribute the product", the words "who is duly authorised under the law to produce and sell or distribute the product" shall be substituted.

Amendment
of section
113.

59. In section 113 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If in any proceedings before the Appellate Board or a High Court for the revocation of a patent under section 64 and section 104, as the case may be, the validity of any claim of a specification is contested and that claim is found by the Appellate Board or the High Court to be valid, the Appellate Board or the High Court may certify that the validity of that claim was contested in those proceedings and was upheld,";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Nothing contained in this section shall be construed as authorising the courts or the Appellate Board hearing appeals from decrees or orders in suits for infringement or petitions for revocation, as the case may be, to pass orders for costs on the scale referred to therein."

Amendment
of section
116.

60. In section 116 of the principal Act [as substituted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (2), clause (c) shall be omitted. 38 of 2002

Amendment
of section
117A.

61. In section 117A of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (2), for the words and figures section 20, 'section 25, section 27, section 28', the words, figures and brackets "section 20, sub-section (4) of section 25, section 28" shall be substituted. 38 of 2002

Amendment
of section
117D.

62. In section 117D of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002], in sub-section (1), for the words, "for rectification of the register", the words and figures "for revocation of a patent before the Appellate Board under section 64 and an application for 38 of 2002

rectification of the register" shall be substituted.

38 of 2002

63. For section 117G of the principal Act [as inserted by the Patents (Amendment) Act, 2002], the following section shall be substituted, namely:—

Substitution of new section for section 117G.

"117G. All cases of appeals against any order or decision of the Controller and all cases pertaining to revocation of patent other than on a counter-claim in a suit for infringement and rectification of register pending before any High Court, shall be transferred to the Appellate Board from such date as may be notified by the Central Government in the official Gazette and the Appellate Board may proceed with the matter either *de novo* or from the stage it was so transferred."

Transfer of pending proceedings to Appellate Board..

64. In section 120 of the principal Act, for the words, "ten thousand rupees", the words "one lakh rupees" shall be substituted.

Amendment of section 120.

65. In section 122 of the principal Act, in sub-section (1), for the words "twenty thousand rupees", the words "ten lakh rupees" shall be substituted.

Amendment of section 122.

66. In section 123 of the principal Act, for the words "ten thousand rupees in the case of a first offence and forty thousand rupees", the words "one lakh rupees in the case of a first offence and five lakh rupees" shall be substituted.

Amendment of section 123.

38 of 2002.

67. In section 126 of the principal Act,—

Amendment of section 126.

(a) in sub-section (1), in clause (c), sub-clause (i) shall be omitted;

(b) in sub-section (2), for the words, brackets and figures "the Patents (Amendment) Act, 2002", the words, brackets and figures "the Patents (Amendment) Act, 2005" shall be substituted.

68. For section 133 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 133. Convention countries.

"133. Any country, which is a signatory or party or a group of countries, union of countries or inter-governmental organisations which are signatories or parties to an international, regional or bi-lateral treaty, convention or arrangement to which India is also a signatory or party and which affords to the applicants for patents in India or to citizens of India similar privileges as are granted to their own citizens or citizens to their member countries in respect of the grant of patents and protection of patent rights shall be a convention country or convention countries for the purposes of this act."

69. In section 135 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 135.

"(3) In case of an application filed under the Patent Cooperation Treaty designating India and claiming priority from a previously filed application in India, the provisions of sub-section (1) and (2) shall apply as if the previously filed application were the basic application:

Provided that a request for examination under section 11B shall be made only for one of the applications filed in India."

70. In section 138 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

Amendment of section 138.

“(1) Where a convention application is made in accordance with the provisions of this Chapter, the applicant shall furnish, when required by the Controller, in addition to the complete specification, copies of the specifications or corresponding documents filed or deposited by the applicant in the patent office of the convention country as referred to in section 133 verified to the satisfaction of the Controller, within the prescribed period from the date of communication by the Controller.”.

Amendment
of section
142.

71. In section 142 of the principal Act, in sub-section (4), for the words “the complete specification”, the words “the application” shall be substituted.

Substitution
of new
section for
section 143.

72. For section 143 of the principal Act, the following section shall substituted, namely:—

Restrictions
upon
publication
of
specification.

“143. Subject to the provisions of Chapter VII, an application for a patent, and any specification filed in pursuance thereof, shall not, except with the consent of the applicant, be published by the Controller before the expiration of the period prescribed under sub-section (1) of section 11A or before the same is open to public inspection in pursuance of sub-section (3) of section 11A or section 43.”.

Substitution
of new
section for
section 145.
Publication
of official
journal.

73. For section 145 of the principal Act, the following section shall substituted, namely:—

“145. The Controller shall publish periodically an official journal which shall contain such information as may be required to be published by or under the provisions of this Act or any rule made thereunder.”.

Amendment
of section
151.

74. In section 151 of the principal Act,—

(a) in sub-section (1), for the words “the High Court”, occurring at both the places, the words “the High Court or the Appellate Board” shall be substituted;

(b) in sub-section (3), for the word “courts”, the words “Appellate Board or the courts, as the case may be,” shall be substituted.

Omission of
section 152.

75. Section 152 of the principal Act shall be omitted.

Amendment
of section
159.

76. in section 159 of the principal Act,—

(i) in sub-section (2)

(a) for clauses (ia) and (ib), the following clauses shall be substituted, namely:—

“(ia) the period which the controller may allow for filing statement and undertaking for in respect of applications under sub-section (1), the period within which the details relating to processing of applications may be filed before the Controller and the details to be furnished by the applicant to the Controller under sub-section (2) of section 8;

(ib) the period within which a reference to the deposit of materials shall be made in the specification under sub-clause (A) of clause (ii) of the proviso to sub-section (4) of section 10;

(ic) the period for which application for patent shall not be open to the public under sub-section (1) and the manner in which the applicant may make a request to the Controller to publish his application under sub-section (2) of section 11A;

(id) the manner of making the request for examination for an application for patent and the period within which such examination shall be made under sub-sections (1) and (3) of section 11B;

(ie) the manner in which an application for withdrawal of an application for grant of a patent shall be made and the period within which a request for examination from the date of revocation of secrecy directions shall be made under the proviso to sub-section (4) of section 11B.”;

(b) in clause (ii), for the word “advertised”, the word “published” shall be substituted;

(c) for clause (v), the following clauses shall be substituted, namely:—

“(v) the manner in which and the period within which the controller shall consider and dispose of a representation under sub-section (1) of section 25;

(va) the period within which the Controller is required to dispose of an application under section 39;”;

(ii) in sub-section (3), the following proviso shall be added at the end, namely:—

“Provided that the Central Government may, if it is satisfied that the circumstances exist which render it practically not possible to comply with such condition of previous publication, dispense with such compliance.”.

77. Section 163 of the principal Act shall be omitted.

Omission of
section 163.

78. (1) Notwithstanding the omission of Chapter IVA of the principal Act by section 21 of this Act, every application for the grant of exclusive marketing rights filed under that Chapter before the 1st day of January, 2005, in respect of a claim for a patent covered under, sub-section (2) of section 5 of the Principal Act such application shall be deemed to be treated as a request for examination for grant of patent under sub-section (3) of section 11B of the principal Act, as amended by this Act.

Transitional
provision.

(2) Every exclusive right to sell or distribute any article or substance in India granted before the 1st day of January, 2005 shall continue to be effective with the same terms and conditions on which it was granted.

(3) Without prejudice to any of the provisions of the principal Act, the applications in respect of which exclusive rights have been granted before the 1st day of January, 2005 shall be examined for the grant of patent immediately on the commencement of this Act.

(4) All suits relating to infringement of the exclusive right granted before 1st day of January, 2005 shall be dealt with in the same manner as if they were suits concerning infringement of patents under Chapter XVIII of the principal Act.

(5) The examination and investigation required as carried out for

the grant of exclusive right shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.

Repeal and
saving.

79. (1) The Patents (Amendment) Ordinance, 2004 is hereby repealed.

ord. 7 of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Act of Parliament and ordinances promulgated by the president

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th December, 2005.

No. RPB/20-2005/Act-20-05/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA,

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, 24th May, 2005/Jyaistha, 3, 1927 (saka)

The following Act of Parliament received the assent of the President on the 21st May, 2005 is hereby published for general information:-

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) ACT, 2005

An Act

(ACT No. 20 of 2005)

(21st May, 2005)

to amend the Prevention of Money-laundering Act, 2002.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2005.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment
of section 2.

2. In section 2 of the Prevention of Money-laundering Act, 2002 (hereinafter referred to as the principal Act), after clause (n), the following clause shall be inserted, namely:—

15 of 2003.

“(na) “investigation” includes all the proceedings under this Act conducted by the Director or by an authority authorised by the Central Government under this Act for the collection of evidence;”

Amendment
of section 28.

3. In section 28 of the principal Act,—

(a) in sub-section (1), for the words “High Court”, the words “High Court or is qualified to be a Judge of the High Court” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.”

Omission of
section 29.

4. Section 29 of the principal Act shall be omitted.

Amendment
of section 30.

5. In section 30 of the principal Act, for the words “terms and conditions of service”, at both the places where they occur, the words and brackets “terms and conditions of service (including tenure of office)” shall be substituted.

Amendment
of section 44.

6. In section 44 of the principal Act, in sub-section (1), in clause (b), the words “upon perusal of police report of the facts which constitute an offence under this Act or” shall be omitted.

Amendment
of section 45.

7. In section 45 of the principal Act,—

(a) in sub-section (1), for the portion beginning with the words and figures “Notwithstanding anything contained in the Code of Criminal Procedure, 1973” and ending with the words “on his own bond unless—”, the following shall be substituted, namely:—

2 of 1974.

“Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule shall be released on bail or on his own bond unless—”;

2 of 1974.

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.”;

2 of 1974.

(c) in sub-section (2), the words, brackets and letter “clause (b) of” shall be omitted.

Amendment
of section 73.

8. In section 73 of the principal Act, in sub-section (2),—

(a) in clause (s), for the words “terms and conditions of service”, the words and brackets “terms and conditions of service (including tenure of office)” shall be substituted;

(b) after clause (u), the following clause shall be inserted, namely:—

“(ua) conditions subject to which a police officer may be authorised to investigate into an offence under sub-section (1A) of section 45.”;

Sd/-

Z. S. NEGI,

Additional Secretary to the
Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



सत्यमेव जयते

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PART VI

Acts of Parliament and ordinances promulgated by the president

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 8th December, 2005.

No. RPB/29-2005/Act-24-05/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA,

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, 23rd June, 2005/Jyaistha, 26, 1927 (saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005 is hereby published for general information:-

THE COASTAL AQUACULTURE AUTHORITY ACT, 2005.

An Act

(ACT No. 24 of 2005)

(23rd June, 2005)

to provide for the establishment of a Coastal Aquaculture Authority for regulating the activities connected with coastal aquaculture in the coastal areas and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Coastal Aquaculture Authority Act, 2005.

Short title and commencement.

(2) Provisions of section 27 shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "Authority" means the Coastal Aquaculture Authority established under sub-section (1) of section 4;

(b) "Chairperson" means the Chairperson of the Authority;

(c) "coastal aquaculture" means culturing, under controlled conditions in ponds, pens, enclosures or otherwise, in coastal areas, of shrimp, prawn, fish or any other aquatic life in saline or brackish water; but does not include fresh water aquaculture;

(d) "coastal area" means the area declared as the Coastal Regulation Zone, for the time being, in the notification of the Government of India in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O. 114(E), dated the 19th February, 1991 and includes such other area as the Central Government may, by notification in the Official Gazette, specify;

(e) "member" means the member of the Authority appointed under sub-section (3) of section 4 and includes the Chairperson and the member-secretary;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "regulations" means the regulations made by the Authority under this Act.

(2) Words and expressions used herein and not defined but defined in the Environment (Protection) Act, 1986 shall have the meanings respectively assigned to them in that Act.

29 of 1986.

CHAPTER II

GENERAL POWERS OF CENTRAL GOVERNMENT

Powers of Central Government to take measures to protect environment.

3. The Central Government shall take all such measures as it deems necessary or expedient for regulation of coastal aquaculture by prescribing guidelines, to ensure that coastal aquaculture does not cause any detriment to the coastal environment and the concept of responsible coastal aquaculture contained in such guidelines shall be followed in regulating the coastal aquaculture activities to protect the livelihood of various sections of the people living in the coastal areas.

CHAPTER III

THE COASTAL AQUACULTURE AUTHORITY

Establishment of Authority and appointment of Chairperson and members.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act an Authority to be called the Coastal Aquaculture Authority.

(2) The head office of the Authority shall be at such place as the Central Government may decide.

(3) The Authority shall consist of the following members who shall be appointed by the Central Government, namely:—

(a) the Chairperson who is, or has been, a Judge of a High Court;

(b) one member who is an expert in the field of coastal aquaculture;

(c) one member who is an expert in the field of coastal ecology nominated by the Department of Ocean Development of the Central Government;

(d) one member who is an expert in the field of environment protection or pollution control nominated by the Ministry of Environment and Forests of the Central Government;

(e) one member to represent the Ministry of Agriculture of the Central Government;

(f) one member to represent the Ministry of Commerce of the Central Government;

(g) four members to represent the coastal States on rotation basis;

(h) one member-secretary.

(4) The term of office of the Chairperson and every other member shall be three years.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the members shall be such as may be prescribed.

5. A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

Disqualifications for appointment as member.

6. Subject to sub-section (5) of section 4, any person ceasing to be a member shall be eligible for reappointment as such member for not more than two consecutive terms.

Eligibility of member for reappointment.

7. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum thereat) as may be specified by regulations.

Meetings of Authority.

(2) If for any reason the Chairperson is unable to attend any meeting of the Authority any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairperson or in his absence the person presiding, shall have and exercise a second or casting vote.

8. No act or proceeding of the Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure adopted by the Authority not affecting the merits of the case.

Vacancy in Authority not to invalidate proceeding.

9. (1) For the purposes of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be specified by the regulations.

Appointment of officers, consultants and other employees of Authority.

(2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary on such terms and conditions as may be specified by the regulations.

10. All orders, decisions and other instruments of the Authority shall be authenticated under the signature of the Chairperson or any other member or any officer of the Authority authorised by the Chairperson in this behalf.

Authentication of orders and other instruments of Authority.

CHAPTER IV

POWERS AND FUNCTIONS OF AUTHORITY

Functions of
Authority.

11. (1) Subject to any guidelines issued by the Central Government under section 3, the Authority shall exercise the following powers and perform the following functions, namely:—

- (a) to make regulations for the construction and operation of aquaculture farms within the coastal areas;
- (b) to inspect coastal aquaculture farms with a view to ascertaining their environmental impact caused by coastal aquaculture;
- (c) to register coastal aquaculture farms;
- (d) to order removal or demolition of any coastal aquaculture farms which is causing pollution after hearing the occupier of the farm; and
- (e) to perform such other functions as may be prescribed.

(2) Where the Authority orders removal or demolition of any coastal aquaculture farm under clause (d) of sub-section (1), the workers of the said farm shall be paid such compensation as may be settled between the workers and the management through an authority consisting of one person only to be appointed by the Authority and such authority may exercise such powers of a District Magistrate for such purpose, as may be prescribed.

Power to enter.

12. Subject to any rule made in this behalf, any person generally or specially authorised by the Authority in this behalf, may, wherever it is necessary to do so for any purposes of this Act, at all reasonable times, enter on any coastal aquaculture land, pond, pen or enclosure and—

- (a) make any inspection, survey, measurement, valuation or inquiry;
- (b) remove or demolish any structure therein; and
- (c) do such other acts or things as may be prescribed:

Provided that no such person shall enter on any coastal aquaculture land, pond, pen or enclosure without giving the occupier of such aquaculture land, pond, pen or enclosure at least twenty-four hours' notice in writing of his intention to do so.

Registration
for coastal
aquaculture.

13. (1) Save as otherwise provided in this section, no person shall carry on, or cause to be carried on, coastal aquaculture in coastal area or traditional coastal aquaculture in the traditional coastal aquaculture farm which lies within the Coastal Regulation Zone referred to in sub-section (9) and is not used for coastal aquaculture purposes on the appointed day unless he has registered his farm with the Authority under sub-section (5) or in pursuance of sub-section (9), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), a person engaged in coastal aquaculture, immediately before the appointed day, may continue to carry on such activity without such registration for a period of three months from that day and if he makes an application for such registration under sub-section (4) within the said period of three months, till the communication to him of the disposing of such application by the Authority.

(3) The registration made under sub-section (5) or in pursuance of sub-section (9)—

- (a) shall be valid for a period of five years;
- (b) may be renewed from time to time for a like period; and
- (c) shall be in such form and shall be subject to such conditions as may be specified by the regulations.

(4) A person who intends to carry on coastal aquaculture shall make an application for registration of his farm before the Authority in such form accompanied with such fees as may be prescribed for the purpose of registration under sub-section (5).

(5) On receipt of an application for registration of a farm under sub-section (4), the Authority shall consider the application in the prescribed manner and after considering the application either register the farm or reject the application:

Provided that the Authority shall not reject the application without recording the reason for such rejection.

(6) The Authority shall, after registering a farm under sub-section (5), issue a certificate of registration in the prescribed form to the person who has made the application for such registration.

(7) In the case of a farm comprising more than two hectares of water spread area, no application for registration to commence any activity connected with coastal aquaculture shall be considered under sub-section (5) unless the Authority, after making such inquiry as it thinks fit, is satisfied that registration of such farm shall not be detrimental to the coastal environment.

(8) Notwithstanding anything contained in this section,—

(a) no coastal aquaculture shall be carried on within two hundred metres from High Tide Lines; and

(b) no coastal aquaculture shall be carried on in creeks, rivers and backwaters within the Coastal Regulation Zone declared for the time being under the Environment (Protection) Act, 1986:

29 of 1986.

Provided that nothing in this sub-section shall apply in the case of a coastal aquaculture farm which is in existence on the appointed day and to the non-commercial and experimental coastal aquaculture farms operated or proposed to be operated by any research institute of the Government or funded by the Government:

Provided further that the Authority may, for the purposes of providing exemption under the first proviso, review from time to time the existence and activities of the coastal aquaculture farms and the provisions of this section shall apply on coastal aquaculture farms in view of such review.

Explanation.—For the purposes of this sub-section, “High Tide Line” means the line on the land up to which the highest water line reaches during the spring tide.

(9) Notwithstanding anything contained in this section, any traditional coastal aquaculture farm which lies within the Coastal Regulation Zone declared by the notification of the Government of India in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O. 114(E), dated the 19th February, 1991 and is not used for coastal aquaculture purposes on the appointed day shall be registered under sub-section (5) by producing before the Authority, by the person who is the owner of such farm, the documentary proof of such ownership failing which such farm shall not be registered under sub-section (5) and if such person after such registration does not utilise such farm, within one year, for coastal aquaculture purposes, the registration shall be cancelled by the Authority.

(10) A person, who intends to renew the registration of a farm made under sub-section (5) or in pursuance of sub-section (9), may make an application within two months before the expiry of such registration to the Authority in the prescribed form accompanied with the prescribed fees and the Authority shall, after receiving such application, renew the registration and for such purpose make an entry with its seal on the registration certificate relating to such form issued under sub-section (6).

(11) The Authority may refuse to renew the registration of a farm under sub-section (10) if the Authority is satisfied that the person to whom such registration is made has failed to utilise such farm for coastal aquaculture purposes or without any reasonable cause has violated any provision of this Act or the rules or regulations made thereunder or any direction or order made by the Authority in pursuance of section 11:

Provided that such refusal to renew the registration shall not be made without providing such person an opportunity of being heard.

Explanation 1.—For the purposes of this section, “appointed day” means the date of establishment of the Authority.

Explanation 2.—For the removal of doubts, it is hereby declared that the expression “to renew the registration” used in sub-sections (10) and (11) shall be construed to include further renewal of the registration.

Punishment for carrying on coastal aquaculture without registration.

14. If any person carries on coastal aquaculture or traditional coastal aquaculture or causes the coastal aquaculture or traditional coastal aquaculture to be carried on in contravention of sub-section (1) of section 13, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both.

Cognizance of offence.

15. No court shall take cognizance of an offence under section 14 without a written complaint filed by an officer of the Authority authorised in this behalf by it.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Payment to Authority.

16. The Central Government may, after due appropriation made by Parliament, by law, in this behalf, pay to the Authority in each financial year such sums as may be considered necessary for the performance of functions of the Authority under this Act.

Fund of Authority.

17. (1) The Authority shall have its own fund and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Authority (including any sum which any State Government or any other authority or person may hand over to the Authority) shall be credited to the fund and all payments by the Authority shall be made therefrom.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Authority.

(3) The Authority may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Authority.

Budget.

18. The Authority shall prepare, in such form and at such time each year as may be prescribed, a budget, in respect of the financial year next ensuing, showing the estimated receipts and expenditure and copies thereof shall be forwarded to the Central Government.

Annual report.

19. The Authority shall prepare once in every calendar year, in such form and at such time as may be prescribed an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

Accounts and audit.

20. (1) The Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(2) The Authority shall, as soon as may be, after closing its annual accounts, prepare a statement of accounts in such form, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General of India, determine.

(3) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI

MISCELLANEOUS

45 of 1860.

21. The Chairperson and other members and the officers and other employees of the Authority and the authority appointed by the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson and other members, officers and other employees of Authority, etc., to be public servants.

22. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson and other members of the Authority or the authority appointed by the Authority or any person authorised by the Authority or any officer authorised by the Chairperson for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation or order made thereunder.

Protection of action taken in good faith.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the guidelines under section 3;

(b) the salaries and allowances payable to, and the other terms and conditions of service of, the members under sub-section (5) of section 4;

(c) the other functions of the Authority under clause (e) of sub-section (1) of section 11;

(d) the powers of a District Magistrate to be exercised by the authority under sub-section (2) of section 11;

(e) the rules subject to which any person referred to in section 12 may enter upon any coastal aquaculture land, pond, pen or enclosure under that section;

(f) the other acts or things under clause (c) of section 12;

(g) the form of application and the fees to be accompanied therewith under sub-section (4) of section 13;

- (h) the manner of considering application under sub-section (5) of section 13;
- (i) the form of certificate of registration under sub-section (6) of section 13;
- (j) the form of application and the fees to be accompanied therewith under sub-section (10) of section 13;
- (k) the form and time of preparing budget under section 18;
- (l) the form and time of preparing annual report under section 19;
- (m) the books of account and other books to be maintained in relation to the accounts of the Authority and the form and manner of maintaining such books of account and other books under sub-section (1) of section 20;
- (n) any other matter which is required to be, or may be, prescribed.

Power of
Authority
to make
regulations.

25. (1) The Authority may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

- (a) the times and places of the meetings of the Authority and the rules of procedure to be observed in regard to the transaction of business at its meetings (including quorum thereat) under sub-section (1) of section 7;
- (b) the terms and conditions of appointment of the officers and other employees under sub-section (1) of section 9;
- (c) the terms and conditions of appointment of adviser or consultant under sub-section (2) of section 9;
- (d) for the construction and operation of coastal aquaculture farms within the coastal areas under clause (a) of sub-section (1) of section 11;
- (e) the form and conditions of registration under clause (c) of sub-section (3) of section 13;
- (f) generally for better regulation of the coastal aquaculture.

Rules and
regulations to
be laid before
Parliament.

26. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Validation.

27. (1) Notwithstanding anything contained in clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 or clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, in the notification of the Government of India in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O. 114(E), dated the 19th February, 1991 (hereafter referred to in this section as the said notification), in paragraph 2, after sub-paragraph (xiii), the following sub-paragraph shall be inserted and shall always be deemed to have been inserted with effect from the 19th day of February, 1991, namely:—

29 of 1986.

“(xiv) nothing contained in this paragraph shall apply to coastal aquaculture.”.

(2) The said notification shall have and shall be deemed always to have effect for all purposes as if the foregoing provisions of this section had been in force at all material times and accordingly notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no coastal aquaculture carried on or undertaken or purporting to have been carried on or undertaken shall be deemed to be in contravention of the said notification and shall be deemed to be and to have always been for all purposes in accordance with law, as if the foregoing provisions of this section had been in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no suit or other proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court of any decree or order directing the removal or closure of any coastal aquaculture farm's activity or demolition of any structure connected thereunder which would not have been so required to be removed, closed or demolished if the foregoing provisions of this section had been in force at all material times.

Sd/-

T.K. Viswanathan,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S.S. Parmar,
Secretary to Government

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 7th December, 2005.

No. RPB/28-2005/Act-25-05/E :— The following Act of Parliament is republished for general Information :—

GOVERNMENT OF INDIA
Ministry of Law and Justice
LEGISLATIVE DEPARTMENT

New Delhi, the 23rd June, 2005/Jaystha 26, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005 is hereby published for general information :—

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2005

(Act No.25 of 2005)

AN ACT

(23rd June, 2005)

further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2005.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1974.

2. In section 20 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of
section 20.

"(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate."

Amendment of
section 24.

3. In section 24 of the principal Act, in sub-section (6), after the proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 18th day of December, 1978, namely:—

'Explanation.—For the purposes of this sub-section,—

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.'

Insertion of
new section
25A.

Directorate of
Prosecution.

4. In Chapter II of the principal Act, after section 25, the following section shall be inserted, namely:—

"25A. (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten-years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor."

Amendment of
section 29.

5. In section 29 of the principal Act,—

(a) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (3), for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment of
section 46.

6. In section 46 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial

Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made."

7. After section 50 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
50A.

"50A. (1) Every police officer or other person making any arrest under this Code shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his friends, relatives or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information.

Obligation of
person making
arrest to inform
about the
arrest, etc., to a
nominated
person.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as may be prescribed in this behalf by the State Government.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person."

8. In section 53 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Amendment of
section 53.

Explanation.—In this section and in sections 53A and 54,—

(a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case;

(b) "registered medical practitioner" means a medical practitioner who possesses any medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 and whose name has been entered in a State Medical Register.

102 of 1956.

9. After section 53 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
53A.

"53A. (1) When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilometres from the place where the offence has been committed, by any other registered medical practitioner, acting at the request of a police officer not below the rank of a sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.

Examination of
person accused
of rape by
medical
practitioner.

(2) The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely:—

(i) the name and address of the accused and of the person by whom he was brought,

(ii) the age of the accused,

(iii) marks of injury, if any, on the person of the accused,

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(iv) the description of material taken from the person of the accused for DNA profiling, and

(v) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination shall also be noted in the report.

(5) The registered medical practitioner shall, without delay, forward the report to the investigating officer, who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of sub-section (5) of that section."

Amendment of
section 54.

10. Section 54 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the registered medical practitioner to the arrested person or the person nominated by such arrested person."

Insertion of
new section
54A.

Identification
of person
arrested.

11. After section 54 of the principal Act, the following section shall be inserted, namely:—

"54A. Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit."

Amendment of
section 82.

12. In section 82 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code, and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

45 of 1860

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1)."

Amendment of
section 102.

13. In section 102 of the principal Act,—

(a) in sub-section (3), after the words "transported to the Court", the words "or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation" shall be inserted;

(b) after sub-section (3), the following proviso shall be added at the end, namely:—

"Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale."

14. In section 110 of the principal Act, in clause (f), in sub-clause (i),—

(i) in item (g), the word "or" shall be omitted;

(ii) after item (g), the following item shall be inserted, namely:—

"(h) the Foreigners Act, 1946; or".

31 of 1946.

Amendment of
section 110.

15. In section 122 of the principal Act, in sub-section (1), in clause (b), for the words "bond without sureties", the words "bond, with or without sureties," shall be substituted.

Amendment of
section 122.

16. In Chapter X of the principal Act, under sub-heading "C.—Urgent cases of nuisance or apprehended danger", after section 144, the following section shall be inserted, namely:—

Insertion of
new section
144A.

'144A. (1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

Power to
prohibit
carrying arms
in procession
or mass drill or
mass training
with arms.

(2) A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.

(3) No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.

(4) The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.

(5) The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under sub-section (4) to the District Magistrate.

45 of 1860.

Explanation.—The word "arms" shall have the meaning assigned to it in section 153AA of the Indian Penal Code.

17. After section 164 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
164A.

'164 A. (1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

Medical
examination of
the victim of
rape.

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:—

(i) the name and address of the woman and of the person by whom she was brought;

(ii) the age of the woman;

(iii) the description of material taken from the person of the woman for DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, without delay forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of sub-section (5) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

Explanation.—For the purposes of this section, "examination" and "registered medical practitioner" shall have the same meanings as in section 53.

18. In section 176 of the principal Act,—

(i) in sub-section (1), the words "where any person dies while in the custody of the police or" shall be omitted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where,—

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Code, in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed."

(iii) after sub-section (4), before the *Explanation*, the following sub-section shall be inserted, namely:—

"(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, under sub-section (1A) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing."

Amendment of
section 202.

19. In section 202 of the principal Act, in sub-section (1), after the words "may, if he thinks fit," the following shall be inserted, namely:—

"and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,"

Amendment of
section 206.

20. In section 206 of the principal Act, in sub-section (1),—

(a) in the opening paragraph, after the words and figures "under section 260", the words and figures "or section 261" shall be inserted;

(b) in the proviso, for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

21. In section 223 of the principal Act, in the proviso,—

Amendment of
section 223.

(a) for the word "Magistrate", the words "Magistrate or Court of Session" shall be substituted;

(b) for the words "if he is satisfied", the words "if he or it is satisfied" shall be substituted.

22. In section 228 of the principal Act, in sub-section (1), in clause (a), for the words ", and thereupon the Chief Judicial Magistrate", the words "or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate" shall be substituted.

Amendment of
section 228.

23. In section 260 of the principal Act, in sub-section (1),—

Amendment of
section 260:

(a) for the words "two hundred rupees", wherever they occur; the words "two thousand rupees" shall be substituted;

(b) in clause (vi), for the words "criminal intimidation", the words "criminal intimidation punishable with imprisonment for a term which may extend to two years, or with fine, or with both" shall be substituted.

24. After section 291 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
291A.

"291A. (1) Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Code, although such Magistrate is not called as a witness:

Identification
report of
Magistrate.

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 21, section 32, section 33, section 155 or section 157, as the case may be, of the Indian Evidence Act, 1872, apply, such statement shall not be used under this sub-section except in accordance with the provisions of those sections.

1 of 1872.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject matter of the said report."

25. In section 292 of the principal Act,—

Amendment of
section 292.

(a) in sub-section (1), after the words "the Mint", the words "or of the Currency Note Press or of the Bank Note Press or of the Security Printing Press" shall be inserted;

(b) in sub-section (3), for the words "the Master of the Mint, or the India Security Press", the words "the General Manager of the Mint or of the Currency Note Press or of the Bank Note Press or of the Security Printing Press or of the India Security Press" shall be substituted.

Amendment of
section 293.

26. In section 293 of the principal Act, in sub-section (f),—

(a) for clause (b), the following clause shall be substituted, namely:—

"(b) the Chief Controller of Explosives;"

(b) after clause (f), the following clause shall be added, namely:—

"(g) any other Government scientific expert specified, by notification, by the Central Government for this purpose."

Insertion of
new section
311A.

Power of
Magistrate to
order person to
give specimen
signatures or
handwriting.

27. After section 311 of the principal Act, the following section shall be inserted, namely:—

"311A. If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding."

Amendment of
section 320.

28. In section 320 of the principal Act, in the Table under sub-section (2),—

(a) the words "Voluntarily causing hurt by dangerous weapons or means" in column 1 and the entries relating thereto in columns 2 and 3 shall be omitted;

(b) in column 3, for the word "Ditto", against the entry relating to section 325, the words "The person to whom the hurt is caused" shall be substituted;

(c) in column 1, for the words "two hundred and fifty rupees", wherever they occur, the words "two thousand rupees" shall be substituted.

Amendment of
section 356.

29. In section 356 of the principal Act, in sub-section (1),—

(a) after the words, figures and letter "or section 489D", the words, figures and brackets "or section 506 (in so far as it relates to criminal intimidation punishable with imprisonment for a term which may extend to seven years or with fine or with both)" shall be inserted;

(b) after the word and figures "Chapter XII", the words and figures "or Chapter XVI" shall be inserted.

Amendment of
section 358.

30. In section 358 of the principal Act, in sub-sections (1) and (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amendment of
section 377.

31. In section 377 of the principal Act,—

(a) in sub-sections (1) and (2), for the words "an appeal to the High Court against the sentence on the ground of its inadequacy", the following shall be substituted, namely:—

"an appeal against the sentence on the ground of its inadequacy—

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court";

(b) in sub-section (3), for the words "the High Court", the words "the Court of Session or, as the case may be, the High Court" shall be substituted.

Amendment of
section 378.

32. In section 378 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5),—

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision.";

(ii) in sub-section (2), for the portion beginning with the words "the Central Government may" and ending with the words "the order of acquittal", the following shall be substituted, namely:—

"the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal—

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision";

(iii) in sub-section (3), for the words "No appeal", the words "No appeal to the High Court" shall be substituted.

33. In section 389 of the principal Act, to sub-section (1), the following provisos shall be added, namely:—

Amendment of section 389.

"Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail."

34. To section 428 of the principal Act, the following proviso shall be added, namely:—

Amendment of section 428.

"Provided that in cases referred to in section 433A, such period of detention shall be set off against the period of fourteen years referred to in that section."

35. In section 436 of the principal Act, in sub-section (1),—

Amendment of section 436.

(a) in the first proviso, for the words "may, instead of taking bail", the words "may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail" shall be substituted;

(b) after the first proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso."

Insertion of
new section
436A.

Maximum
period for
which an
undertrial
prisoner can be
detained.

36. After section 436 of the principal Act, the following section shall be inserted, namely:—

"436A. Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded."

Amendment of
section 437.

37. In section 437 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (ii), for the words "a non-bailable and cognizable offence", the words "a cognizable offence punishable with imprisonment for three years or more but not less than seven years" shall be substituted;

(b) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor."

(ii) in sub-section (3), for the portion beginning with the words "the Court may impose" and ending with the words "the interests of justice", the following shall be substituted, namely:—

"the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence,

and may also impose, in the interests of justice, such other conditions as it considers necessary".

38. In section 438 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment of section 438.

"(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, *inter alia*, the following factors, namely:—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(1A) Where the Court grants an interim order under sub-section (1), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

(1B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice."

39. After section 441 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 441A.

"441A. Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars."

Declaration by sureties.

40. In section 446 of the principal Act, in sub-section (3), for the words "at its discretion", the words "after recording its reasons for doing so" shall be substituted.

Amendment of section 446.

41. In section 459 of the principal Act, for the words "less than ten rupees", the words "less than five hundred rupees" shall be substituted.

Amendment of section 459.

42. In the First Schedule to the principal Act, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE",—

Amendment of the First Schedule.

(a) after the entries relating to section 153A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"153AA	Knowingly carrying arms in any procession or organising or holding or taking part in any mass drill or mass training with arms	Imprisonment for 6 months and fine of 2,000 rupees	Ditto	Ditto	Any Magistrate."

(b) in the 6th column, in the entries relating to section 153B, for the word "Ditto" the words "Magistrate of the first class" shall be substituted;

(c) after the entries relating to section 174, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"174A	Failure to appear at specified place and specified time as required by a proclamation published under sub-section (1) of section 82 of this Code	Imprisonment for 3 years or with fine, or with both	Cognizable	Non-bailable	Magistrate of the first class.
	In a case where declaration has been made under sub-section (4) of section 82 of this Code pronouncing a person as proclaimed offender	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.";

(d) in the entries relating to section 175,—

(i) in the 4th column, for the word "Ditto", the word "Non-cognizable";

(ii) in the 5th column, for the word "Ditto", the word "Bailable",

shall be substituted;

(e) after the entries relating to section 229, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"229A	Failure by person released on bail or bond to appear in Court	Imprisonment for 1 year, or fine, or both	Cognizable	Non-bailable	Any Magistrate.";

(f) in the 5th column, in the entries relating to—

(i) section 274, for the word "Ditto", the word "Non-bailable" shall be substituted;

(ii) section 275, for the word "Ditto", the word "Bailable" shall be substituted;

(iii) section 324, for the word "Ditto", the word "Non-bailable" shall be substituted;

(iv) section 325, for the word "Ditto", the word "Bailable" shall be substituted;

(v) section 332, for the word "Bailable", the word "Ditto" shall be substituted;

(vi) section 333, for the word "Non-bailable", the word "Ditto" shall be substituted;

(vii) section 353, for the word "Ditto", the word "Non-bailable" shall be substituted;

(viii) section 354, for the word "Ditto", the word "Bailable" shall be substituted.

43. In the Second Schedule to the principal Act, in Form No. 45, after the words and figures "See section 436," the figures and letter "436A," shall be inserted.

Amendment of the Second Schedule.

44. In the Indian Penal Code,—

Amendment of Act 45 of 1860.

(a) after section 153A, the following section shall be inserted, namely:—

'153AA. Whoever knowingly carries arms in any procession or organizes or holds or takes part in any mass drill or mass training with arms in any public place in contravention of any public notice or order issued or made under section 144A of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees.

Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.

Explanation.—"Arms" means articles of any description designed or adapted as weapons for offence or defence and includes fire arms, sharp edged weapons, lathis, dandas and sticks.'

(b) after section 174, the following section shall be inserted, namely:—

"174A. Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine."

Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.

(c) after section 229, the following section shall be inserted, namely:—

"229A. Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in Court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Failure by person released on bail or bond to appear in Court.

Explanation.—The punishment under this section is—

(a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and

(b) without prejudice to the power of the Court to order forfeiture of the bond."

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar. 8th December, 2005.

No. RPB/23-2005/Act-28-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 23rd June, 2005/Jaystha 26, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005 is hereby published for general information :-

THE SPECIAL ECONOMIC ZONES ACT, 2005,

AN
ACT

(Act No. 28 of 2005)

(23rd June, 2005)

to provide for the establishment, development and management of the Special Economic Zones for the promotion of exports and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Special Economic Zones Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" with reference to a Special Economic Zone means the date on which the Special Economic Zone is notified by the Central Government under sub-section (1) of section 4;

(b) "Approval Committee" means an Approval Committee constituted under sub-section (1) of section 13;

(c) "authorised operations" means operations which may be authorised under sub-section (2) of section 4 and sub-section (9) of section 15;

(d) "Authority" means a Special Economic Zone Authority constituted under sub-section (1) of section 31;

(e) "Board" means the Board of Approval constituted under sub-section (1) of section 8;

(f) "Co-Developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (12) of section 3;

(g) "Developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (10) of section 3 and includes an Authority and a Co-Developer;

(h) "Development Commissioner" means the Development Commissioner appointed for one or more Special Economic Zones under sub-section (1) of section 11;

(i) "Domestic Tariff Area" means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones;

(j) "entrepreneur" means a person who has been granted a letter of approval by the Development Commissioner under sub-section (9) of section 15;

(k) "existing Special Economic Zone" means every Special Economic Zone which is in existence on or before the commencement of this Act;

(l) "existing Unit" means every Unit which has been set up on or before the commencement of this Act in an existing Special Economic Zone;

(m) "export" means—

(i) taking goods, or providing services, out of India, from a Special Economic Zone, by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) supplying goods, or providing services, from the Domestic Tariff Area to a Unit or Developer; or

(iii) supplying goods, or providing services, from one Unit to another Unit or Developer, in the same or different Special Economic Zone;

(n) "Free Trade and Warehousing Zone" means a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on;

(o) "import" means—

(i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or

(ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;

(p) "infrastructure facilities" means industrial, commercial or social infrastructure or other facilities necessary for the development of a Special Economic Zone or such other facilities which may be prescribed;

(q) "International Financial Services Centre" means an International Financial Services Centre which has been approved by the Central Government under sub-section (1) of section 18;

(r) "manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining;

(s) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(t) "notified offences" means the offences specified as such under sub-section (1) of section 21;

(u) "Offshore Banking Unit" means a branch of a bank located in a Special Economic Zone and which has obtained the permission under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949;

(v) "person" includes an individual, whether resident in India or outside India, a Hindu undivided family, co-operative society, a company, whether incorporated in India or outside India, a firm, proprietary concern, or an association of persons or body of individuals, whether incorporated or not, local authority and any agency, office or branch owned or controlled by such individual, Hindu undivided family, co-operative, association, body, authority or company;

(w) "prescribed" means prescribed by rules made by the Central Government under this Act;

(x) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

(y) "Schedule" means Schedules to this Act;

(z) "services" means such tradable services which,—

(i) are covered under the General Agreement on Trade in Services annexed as IB to the Agreement establishing the World Trade Organisation concluded at Marrakesh on the 15th day of April, 1994;

(ii) may be prescribed by the Central Government for the purposes of this Act; and

(iii) earn foreign exchange;

(za) "Special Economic Zone" means each Special Economic Zone notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone;

(zb) "State Government" means a State Government of the State in which a Special Economic Zone is established or proposed to be established;

(zc) "Unit" means a Unit set up by an entrepreneur in a Special Economic Zone and includes an existing Unit, an Offshore Banking Unit and a Unit in an International Financial Services Centre, whether established before or established after the commencement of this Act;

10 of 1949.

2 of 1934.

(za) all other words and expressions used and not defined in this Act but defined in the Central Excise Act, 1944, the Industries (Development and Regulation) Act, 1951, the Income-tax Act, 1961, the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992 shall have the meanings respectively assigned to them in those Acts.

1 of 1944.
65 of 1951.
43 of 1961.
52 of 1962.
22 of 1992.

CHAPTER II

ESTABLISHMENT OF SPECIAL ECONOMIC ZONE

Procedure for
making
proposal to
establish
Special
Economic
Zone.

3. (1) A Special Economic Zone may be established under this Act, either jointly or severally by the Central Government, State Government, or any person for manufacture of goods or rendering services or for both or as a Free Trade and Warehousing Zone.

(2) Any person, who intends to set up a Special Economic Zone, may, after identifying the area, make a proposal to the State Government concerned for the purpose of setting up the Special Economic Zone.

(3) Notwithstanding anything contained in sub-section (2), any person, who intends to set up a Special Economic Zone, may, after identifying the area, at his option, make a proposal directly to the Board for the purpose of setting up the Special Economic Zone:

Provided that where such a proposal has been received directly from a person under this sub-section, the Board may grant approval and after receipt of such approval, the person concerned shall obtain the concurrence of the State Government within the period, as may be prescribed.

(4) In case a State Government intends to set up a Special Economic Zone, it may after identifying the area, forward the proposal directly to the Board for the purpose of setting up the Special Economic Zone:

Provided that the Central Government may,—

(a) after consulting the State Government concerned;

(b) without referring the proposal for setting up the Special Economic Zone to the Board; and

(c) after identifying the area,

suo motu set up and notify the Special Economic Zone.

(5) Every proposal under sub-sections (2) to (4) shall be made in such form, and manner, containing such particulars as may be prescribed.

(6) The State Government may, on receipt of the proposal made under sub-section (2), forward the same together with its recommendations to the Board within such period as may be prescribed.

(7) Without prejudice to the provisions contained in sub-section (8), the Board may, after receipt of the proposal under sub-sections (2) to (4), approve the proposal subject to such terms and conditions as it may deem fit to impose, or modify or reject the proposal.

(8) The Central Government may prescribe the following requirements for establishment of a Special Economic Zone, namely:—

(a) the minimum area of land and other terms and conditions subject to which the Board shall approve, modify or reject any proposal received by it under sub-sections (2) to (4); and

(b) the terms and conditions, subject to which the Developer shall undertake the authorised operations and his obligations and entitlements:

Provided that different minimum area of land and other terms and conditions referred to in clause (a) may be prescribed by the Central Government for a class or classes of Special Economic Zones.

(9) If the Board,—

(a) approves without any modification the proposal received under sub-sections (2) to (4), it shall communicate the same to the Central Government;

(b) approves with modifications the proposal received under sub-sections (2) to (4), it shall, communicate such modifications to the person or the State Government concerned and if such modifications have been accepted by such person or State Government, the Board shall communicate the approval to the Central Government;

(c) rejects the proposal received under sub-sections (2) to (4), it shall record the reasons therefor and communicate the rejection to the Central Government which shall intimate to the State Government or the person concerned.

(10) The Central Government shall, on receipt of communication under clause (a) or clause (b) of sub-section (9), grant, within such time as may be prescribed, a letter of approval on such terms and conditions and obligations and entitlements as may be approved by the Board, to the Developer, being the person or the State Government concerned:

Provided that the Central Government may, on the basis of approval of the Board, approve more than one Developer in a Special Economic Zone in cases where one Developer does not have in his possession the minimum area of contiguous land, as may be prescribed, for setting up a Special Economic Zone and in such cases, each Developer shall be considered as a Developer in respect of the land in his possession.

(11) Any person who, or a State Government which, intends to provide any infrastructure facilities in the identified area referred to in sub-sections (2) to (4), or undertake any authorised operation may, after entering into an agreement with the Developer referred to in sub-section (10), make a proposal for the same to the Board for its approval and the provisions of sub-section (5) and sub-sections (7) to (10) shall, as far as may be, apply to the said proposal made by such person or the State Government.

(12) Every person or the State Government referred to in sub-section (11), whose proposal has been approved by the Board and who, or which, has been granted letter of approval by the Central Government, shall be considered as a Co-Developer of the Special Economic Zone.

(13) Subject to the provisions of this section and the letter of approval granted to a Developer, the Developer may allocate space or built up area or provide infrastructure services to the approved Units in accordance with the agreement entered into by him with the entrepreneurs of such Units.

4. (1) The Developer shall, after the grant of letter of approval under sub-section (10) of section 3, submit the exact particulars of the identified area referred to in sub-sections (2) to (4) of that section, to the Central Government and thereupon that Government may, after satisfying that the requirements, under sub-section (8) of section 3 and other requirements, as may be prescribed, are fulfilled, notify the specifically identified area in the State as a Special Economic Zone:

Establishment of Special Economic Zone and approval and authorisation to operate it to, Developer.

Provided that an existing Special Economic Zone shall be deemed to have been notified and established in accordance with the provisions of this Act and the provisions of this Act shall, as far as may be, apply to such Zone accordingly:

Provided further that the Central Government may, after notifying the Special Economic Zone, if it considers appropriate, notify subsequently any additional area to be included as a part of that Special Economic Zone.

(2) After the appointed day, the Board may, authorise the Developer to undertake in a Special Economic Zone, such operations which the Central Government may authorise.

5. The Central Government, while notifying any area as a Special Economic Zone or an additional area to be included in the Special Economic Zone and discharging its functions under this Act, shall be guided by the following, namely:—

Guidelines for notifying Special Economic Zone.

- (a) generation of additional economic activity;
- (b) promotion of exports of goods and services;
- (c) promotion of investment from domestic and foreign sources;
- (d) creation of employment opportunities;
- (e) development of infrastructure facilities; and
- (f) maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.

Processing
and non-
processing
areas.

6. The areas falling within the Special Economic Zones may be demarcated by the Central Government or any authority specified by it as—

- (a) the processing area for setting up Units for activities, being the manufacture of goods, or rendering services; or
- (b) the area exclusively for trading or warehousing purposes; or
- (c) the non-processing areas for activities other than those specified under clause (a) or clause (b).

Exemption
from taxes,
duties or cess.

7. Any goods or services exported out of, or imported into, or procured from the Domestic Tariff Area by,—

- (i) a Unit in a Special Economic Zone; or
- (ii) a Developer,

shall, subject to such terms, conditions and limitations, as may be prescribed, be exempt from the payment of taxes, duties or cess under all enactments specified in the First Schedule.

CHAPTER III

CONSTITUTION OF BOARD OF APPROVAL

Constitution
of Board of
Approval.

8. (1) The Central Government shall, within fifteen days of the commencement of this Act, by notification, constitute, for the purposes of this Act, a Board to be called the Board of Approval.

(2) The Board shall consist of—

(a) an officer not below the rank of an Additional Secretary to the Government of India in the Ministry or Department of the Central Government dealing with commerce—Chairperson, *ex officio*;

(b) two officers, not below the rank of a Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministry or Department of the Central Government dealing with revenue—Members, *ex officio*;

(c) one officer not below the rank of a Joint Secretary to the Government of India to be nominated by the Central Government to represent the Ministry or Department of the Central Government dealing with economic affairs (financial services)—Member, *ex officio*;

(d) such number of officers, not exceeding ten, not below the rank of the Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministries or Departments of the Central Government dealing with commerce, industrial policy and promotion, science and technology, small scale industries and agro and rural industries, home affairs, defence, environment and forests, law, overseas Indian affairs and urban development—Members, *ex officio*;

(e) a nominee of the State Government concerned—Member, *ex officio*;

(f) the Director General of Foreign Trade or his nominee—Member, *ex officio*;

(g) the Development Commissioner concerned—Member, *ex officio*;

(h) a Professor in the Indian Institute of Management, being a society registered under the Societies Registration Act, 1860 or the Indian Institute of Foreign Trade, being a society registered under the Societies Registration Act, 1860, as may be, nominated by the Central Government—Member, *ex officio*;

21. of 1860.

(i) an officer not below the rank of Deputy Secretary to the Government of India dealing with the Special Economic Zones in the Ministry or Department of the Central Government, dealing with commerce, to be nominated by the Central Government—Member-Secretary, *ex officio*;

Provided that the member, being the Joint Secretary, nominated under clauses (b) to (d) of this sub-section may, if he is unable to attend the meeting of the Board, authorise any other officer to attend the meeting of the Board on his behalf.

(3) The term of office of an *ex officio* Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

(4) For the purposes of performing its functions, the Board may co-opt as members, such number of persons as it deems fit, who have special knowledge of, and practical experience in, matters relating to, or relevant to activity connected with the Special Economic Zones and any such person shall have the right to take part in the discussions of the Board but shall not be counted for the quorum and shall not be a member for any other purpose and such person shall be entitled to receive such allowances or fees, as the case may be, fixed by the Board.

(5) The Board shall meet at such times and places as may be appointed by it and shall have the power to regulate its own procedure.

(6) One-third of the total Members of the Board shall form a quorum, and all the acts of the Board shall be decided by a general consensus of the Members present.

(7) No act or proceeding of the Board shall be called in question on the ground merely of existence of any vacancy in, or any defect in the constitution of, the Board.

(8) All orders and decisions of the Board and all other instruments issued by it shall be authenticated by the signature of the Member-Secretary, or any other Member as may be authorised by the Board in this behalf.

9. (1) Subject to the provisions of this Act, the Board shall have the duty to promote and ensure orderly development of the Special Economic Zones.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Board shall include—

(a) granting of approval or rejecting proposal or modifying such proposals for establishment of the Special Economic Zones;

(b) granting approval of authorised operations to be carried out in the Special Economic Zones by the Developer;

(c) granting of approval to the Developers or Units (other than the Developers or the Units which are exempt from obtaining approval under any law or by the Central Government) for foreign collaborations and foreign direct investments (including investments by a person resident outside India), in the Special Economic Zone for its development, operation and maintenance;

(d) granting of approval or rejecting of proposal for providing infrastructure facilities in a Special Economic Zone or modifying such proposals;

(e) granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, a licence to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone;

(f) suspension of the letter of approval granted to a Developer and appointment of an Administrator under sub-section (1) of section 10;

(g) disposing of appeals preferred under sub-section (4) of section 15;

(h) disposing of appeals preferred under sub-section (4) of section 16;

(i) performing such other functions as may be assigned to it by the Central Government.

(3) The Board may, if so required for the purposes of this Act or any other law for the time being in force relating to Special Economic Zones, by notification, decide as to whether a particular activity constitutes manufacture as defined in clause (r) of section 2 and such decision of the Board shall be binding on all Ministries and Departments of the Central Government.

(4) The Board may delegate such powers and functions as it may deem fit to one or more Development Commissioners for effective and proper discharge of the functions of the Board.

(5) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such

Duties,
powers and
functions of
Board.

directions on questions of policy as the Central Government may give in writing to it from time to time.

(6) The decision of the Central Government whether a question is one of policy or not shall be final.

Suspension of letter of approval and transfer of Special Economic Zone in certain cases.

10. (1) If, at any time, the Board is of the opinion that a Developer—

(a) is unable to discharge the functions or perform the duties imposed on him by or under the provisions of this Act or rules made thereunder; or

(b) has persistently defaulted in complying with any direction given by the Board under this Act; or

(c) has violated the terms and conditions of the letter of approval; or

(d) whose financial position is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by the letter of approval, and

the circumstances exist which render it necessary for it in public interest so to do, the Board may, on application, or with the consent of the Developer, or otherwise, for reasons to be recorded in writing, suspend the letter of approval, granted to the Developer for a whole or part of his area established as Special Economic Zone, for a period not exceeding one year and appoint an Administrator to discharge the functions of the Developer in accordance with the terms and conditions of the letter of approval and manage the Special Economic Zone accordingly.

(2) Consequent upon appointment of an Administrator, the management of the Special Economic Zone of the Developer referred to in sub-section (1) shall vest in the Administrator.

(3) No letter of approval shall be suspended under sub-section (1) unless the Board has given to the Developer not less than three months' notice, in writing, stating the grounds on which it proposes to suspend the letter of approval, and has considered any cause shown by the Developer within the period of that notice, against the proposed suspension.

(4) The Board may, instead of suspending the letter of approval under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be complied with by the Developer and shall be of like force and effect as if they were contained in the letter of approval.

(5) In case the Board suspends a letter of approval under this section, it shall serve a notice of suspension upon the Developer and fix a date on which the suspension shall take effect.

(6) Upon suspension of the letter of approval under sub-section (1), the Special Economic Zone of the Developer referred to in sub-section (5) shall vest in the Administrator under sub-section (2) for a period not exceeding one year or up to the date on which the letter of approval for such Special Economic Zone is transferred, whichever is earlier, in accordance with the provisions contained in sub-sections (7) and (9), as the case may be.

(7) Where the Board has given notice for suspension of letter of approval under sub-section (5), the Developer may, after prior approval of the Board, transfer his letter of approval to any person who is found eligible by the Board for grant of such approval.

(8) If at any time, it appears to the Board that the purpose of the order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Board may cancel the order and thereupon the Administrator shall be divested of the management of the Special Economic Zone which shall, unless otherwise directed by the Board, again vest in the person, being the Developer, in whom it was vested immediately prior to the date of appointment of the Administrator.

(9) Where the Board suspends the letter of approval, under this section, in respect of any Developer, the following provisions shall apply, namely:—

(a) the Board shall invite applications for transferring the letter of approval of the Developer, whose approval has been suspended and select the person or persons, in accordance with the procedure as may be prescribed, to whom the letter of approval of the Developer in the Special Economic Zone may be transferred;

(b) upon selection of person or persons under sub-clause (a), the Board may, by notice in writing, require the Developer to transfer his letter of approval in a Special Economic Zone to the person or persons so selected and thereupon the Developer shall transfer his interests, rights and liabilities in the Special Economic Zone to any of the persons (hereafter in this section referred to as the "transferee") who has been selected by the Board on such terms and conditions and consideration as may be agreed upon between the Developer and the transferee;

(c) all the rights, duties, obligations and liabilities of the Developer, on and from the date of suspension of letter of approval or on and from the date, if earlier, on which his letter of approval in the Special Economic Zone of the Developer has been transferred to the transferee, shall cease absolutely except for any liabilities which have accrued prior to that date;

(d) the Board may make such interim arrangements in regard to the operation of the Special Economic Zone as may be considered appropriate;

(e) the Administrator shall exercise such powers and discharge such functions as the Board may direct.

(10) The Board may, in order to promote export or to protect the interest of Units or in the public interest, issue such directions or formulate such scheme as it may consider necessary for operation of the Special Economic Zone.

CHAPTER IV

DEVELOPMENT COMMISSIONER

11. (1) The Central Government may appoint any of its officers not below the rank of Deputy Secretary to the Government of India as the Development Commissioner of one or more Special Economic Zones.

Development
Commissioner.

(2) The Central Government may appoint such officers and other employees as it considers necessary to assist the Development Commissioner in the performance of his functions in the Special Economic Zones established by a Developer (other than the Central Government) under this Act on such terms and conditions as it deems fit.

(3) Every Development Commissioner, officer and other employee shall be entitled to such salary and allowances and subject to such terms and conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be specified by the Central Government.

12. (1) Every Development Commissioner shall take all steps in order to discharge his functions under this Act to ensure speedy development of the Special Economic Zone and promotion of exports therefrom.

Functions of
Development
Commissioner.

(2) Without prejudice to the generality of the foregoing provisions, the Development Commissioner shall—

(a) guide the entrepreneurs for setting up of Units in the Special Economic Zone;

(b) ensure and take suitable steps for effective promotion of exports from the Special Economic Zone;

(c) ensure proper co-ordination with the Central Government or State Government Departments concerned or agencies with respect to, or for the purposes, of clauses (a) and (b);

(d) monitor the performance of the Developer and the Units in a Special Economic Zone;

(e) discharge such other functions as may be assigned to him by the Central Government under this Act or any other law for the time being in force; and

(f) discharge such other functions as may be delegated to him by the Board.

(3) Every Development Commissioner shall be overall in-charge of the Special Economic Zone and shall exercise administrative control and supervision over the officers and employees appointed under sub-section (2) of section 11 (including the officials deputed to such Special Economic Zone) to discharge any of the functions under this Act.

(4) Without prejudice to the provisions of sub-sections (1) to (3), every Development Commissioner shall discharge such functions and exercise such powers as may be delegated to him by a general or special order by the Central Government or the State Government concerned, as the case may be.

(5) Every Development Commissioner may call for such information from a Developer or Unit from time to time as may be necessary to monitor the performance of the Developer or the Unit, as the case may be.

(6) The Development Commissioner may delegate any or all of his powers or functions to any of the officers employed under him.

CHAPTER V

SINGLE WINDOW CLEARANCE

Constitution of
Approval
Committee.

13. (1) The Central Government shall,—

(a) in the case of existing Special Economic Zones, within six months from the date of commencement of this Act;

(b) in case of other Special Economic Zones established after the commencement of this Act, within six months from the date of establishment of such Special Economic Zone,

by notification, constitute a Committee for every Special Economic Zone, to be called the Approval Committee to exercise the powers and perform the functions specified in section 14.

(2) Every Approval Committee shall consist of—

(a) the Development Commissioner—Chairperson, *ex officio*;

(b) two officers of the Central Government to be nominated by that Government—Members, *ex officio*;

(c) two officers of the Central Government to be nominated by that Government to represent the Ministry or Department dealing with revenue—Members, *ex officio*;

(d) one officer of the Central Government to be nominated by that Government to represent the Ministry or Department dealing with economic affairs (financial services)—Member, *ex officio*;

(e) two officers of the State Government concerned to be nominated by that State Government—Members, *ex officio*;

(f) a representative of the Developer concerned—Special invitee.

(3) For the purpose of exercising its powers and performing its functions, the Approval Committee may invite to its meetings, such persons as the Committee deems fit, whose assistance or advice it may consider necessary.

(4) Every Approval Committee shall meet at such times and places as it considers necessary and shall have the power to regulate its own procedure.

(5) One-half of the total Members of the Approval Committee shall form a quorum, and all the acts of the Approval Committee shall be decided by a general consensus of the Members present:

Provided that in case the Approval Committee is unable to decide any matter by a general consensus, such matter shall stand referred to the Board of Approval for its decision.

(6) No act of the Approval Committee shall be called in question on the ground merely of existence of any vacancy in, or any defect in the constitution of, the Approval Committee.

(7) All orders and decisions of the Approval Committee and all other communications issued by it shall be authenticated by the signature of the Chairperson or any other member as may be authorised by the Approval Committee in this behalf.

(8) The term of office of an *ex officio* Member shall come to an end as soon as he ceases to hold office by virtue of which he was so nominated.

14. (1) Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely:—

Powers and functions of Approval Committee.

(a) approve the import or procurement of goods from the Domestic Tariff Area, in the Special Economic Zone for carrying on the authorised operations by a Developer;

(b) approve the providing of services by a service provider, from outside India, or from the Domestic Tariff Area, for carrying on the authorised operations by the Developer, in the Special Economic Zone;

(c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;

(d) approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone [other than the grant of licence under clause (e) of sub-section (2) of section 9] in accordance with the provisions of sub-section (8) of section 15:

Provided that where the Approval Committee is unable to decide whether a particular process constitutes manufacture or not it shall refer the same to the Board of Approval for decision;

(e) allow, on receipt of approval under clause (c) of sub-section (2) of section 9, foreign collaborations and foreign direct investments (including investments by a person outside India) for setting up a Unit;

(f) monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and

(g) perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

(2) The Approval Committee shall not discharge such functions and exercise such powers referred to in sub-section (1) in relation to a Developer, being the Central Government, as may be specified, by notification, by the Central Government:

Provided that till such time, the Approval Committee is constituted, the concerned Development Commissioner shall discharge all functions and exercise all powers of the Approval Committee.

15. (1) Any person, who intends to set up a Unit for carrying on the authorised operations in a Special Economic Zone, may submit a proposal to the Development Commissioner concerned in such form and manner containing such particulars as may be prescribed:

Setting up of Unit.

Provided that an existing Unit shall be deemed to have been set up in accordance with the provisions of this Act and such Units shall not require approval under this Act.

(2) On receipt of the proposal under sub-section (1), the Development Commissioner shall submit the same to the Approval Committee for its approval.

(3) The Approval Committee may, either approve the proposal without modification, or approve the proposal with modifications subject to such terms and conditions as it may deem fit to impose, or reject the proposal in accordance with the provisions of sub-section (8):

Provided that in case of modification or rejection of a proposal, the Approval Committee shall afford a reasonable opportunity of being heard to the person concerned and after recording the reasons, either modify or reject the proposal.

(4) Any person aggrieved by an order of the Approval Committee, made under sub-section (3), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(8) The Central Government may prescribe,—

(a) the requirements (including the period for which a Unit may be set up) subject to which the Approval Committee shall approve, modify or reject any proposal referred to in sub-section (3);

(b) the terms and conditions, subject to which the Unit shall undertake the authorised operations and its obligations and entitlements.

(9) The Development Commissioner may, after approval of the proposal referred to in sub-section (3), grant a letter of approval to the person concerned to set up a Unit and undertake such operations which the Development Commissioner may authorise and every such operation so authorised shall be mentioned in the letter of approval.

Cancellation of
letter of
approval to
entrepreneur.

16. (1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

Provided that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

(2) Where the letter of approval has been cancelled under sub-section (1), the Unit shall not, from the date of such cancellation, be entitled to any exemption, concession, benefit or deduction available to it, being a Unit, under this Act.

(3) Without prejudice to the provisions of this Act, the entrepreneur whose letter of approval has been cancelled under sub-section (1), shall remit, the exemption, concession, drawback and any other benefit availed by him in respect of the capital goods, finished goods lying in stock and unutilised raw materials relatable to his Unit, in such manner as may be prescribed.

(4) Any person aggrieved by an order of the Approval Committee made under sub-section (1), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

Setting up and
operation of
Offshore
Banking Unit.

17. (1) An application for setting up and operation of an Offshore Banking Unit in a Special Economic Zone may be made to the Reserve Bank in such form and manner as may be prescribed.

(2) On receipt of an application under sub-section (1), the Reserve Bank shall, if it is satisfied that the applicant fulfils all the conditions specified under sub-section (3), grant permission to such applicant for setting up and operation of an Offshore Banking Unit.

(3) The Reserve Bank may, by notification, specify the terms and conditions subject to which an Offshore Banking Unit may be set up and operated in the Special Economic Zone.

18. (1) The Central Government may approve the setting up of an International Financial Services Centre in a Special Economic Zone and prescribe the requirements for setting up and operation of such Centre:

Setting up of International Financial Services Centre.

Provided that the Central Government shall approve only one International Financial Services Centre in a Special Economic Zone.

(2) The Central Government may, subject to such guidelines as may be framed by the Reserve Bank, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and such other concerned authorities, as it deems fit, prescribe the requirements for setting up and the terms and conditions of the operation of Units in an International Financial Services Centre.

19. Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if required,—

Single application form, return, etc.

(a) prescribe a single application form for obtaining any licence, permission or registration or approval by a Developer, or an entrepreneur under one or more Central Acts;

(b) authorise the Board, the Development Commissioner or Approval Committee, to exercise the powers of the Central Government on matters relating to the development of a Special Economic Zone or setting up and operation of Units;

(c) prescribe a single form for furnishing returns or information by a Developer or an entrepreneur under one or more Central Acts.

20. Notwithstanding anything contained in any other law for the time being in force, the Central Government may, by notification, specify any officer or agency to carry out surveys or inspections for securing of compliance with the provisions of any Central Act by a Developer or an entrepreneur, as the case may be, and such officer or agency shall submit verification and compliance reports, in such manner and within such time as may be specified in the said notification.

Agency to inspect.

21. (1) The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

Single enforcement officer or agency for notified offences.

(2) The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.

(3) Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.

22. The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Investigation, inspection, search or seizure.

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

Provided further that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner.

Designated
Courts to try
suits and
notified
offences.

23. (1) The State Government, in which the Special Economic Zone is situated, may, with the concurrence of the Chief Justice of the High Court of that State, designate one or more courts—

- (a) to try all suits of a civil nature arising in the Special Economic Zone; and
- (b) to try notified offences committed in the Special Economic Zone.

(2) No court, other than the court designated under sub-section (1), shall try any suit or conduct the trial of any notified offence referred to in that sub-section:

Provided that the courts, in which any suit of a civil nature in a Special Economic Zone had been filed before the commencement of this Act, shall continue to try such suit after such commencement:

Provided further that the courts, in which any trial of any notified offence is being conducted before the commencement of this Act, shall continue to conduct the trial of such offence after the commencement of this Act:

Provided also that the courts competent to try any notified offence, before the commencement of this Act, shall conduct the trial in respect of such offence after the commencement of this Act until the courts have been designated under sub-section (1) and all such cases relating to such trials shall thereafter be transferred to such courts so designated which shall conduct the trial from the stage at which such cases were so transferred.

Appeal to
High Court.

24. Any person aggrieved, by any decision or order of the court designated under sub-section (1) of section 23, may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the courts so designated to him on any question of fact or law arising out of such orders:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation.— In section 23 and in this section “High Court” means the High Court of the State in which the Special Economic Zone is situated.

Offences by
companies.

25. (1) Where an offence has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided for the offence, if he has proved that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

SPECIAL FISCAL PROVISIONS FOR SPECIAL ECONOMIC ZONES

26. (1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely:—

Exemptions, drawbacks and concessions to every Developer and entrepreneur.

52 of 1962.
51 of 1975.

(a) exemption from any duty of customs, under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on goods imported into, or services provided in, a Special Economic Zone or a Unit, to carry on the authorised operations by the Developer or entrepreneur;

52 of 1962.
51 of 1975.

(b) exemption from any duty of customs, under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit, to any place outside India;

1 of 1944.
5 of 1986.

(c) exemption from any duty of excise, under the Central Excise Act, 1944 or the Central Excise Tariff Act, 1985 or any other law for the time being in force, on goods brought from Domestic Tariff Area to a Special Economic Zone or Unit, to carry on the authorised operations by the Developer or entrepreneur;

(d) drawback or such other benefits as may be admissible from time to time on goods brought or services provided from the Domestic Tariff Area into a Special Economic Zone or Unit or services provided in a Special Economic Zone or Unit by the service providers located outside India to carry on the authorised operations by the Developer or entrepreneur;

32 of 1994.

(e) exemption from service tax under Chapter V of the Finance Act, 1994 on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone;

23 of 2004.

(f) exemption from the securities transaction tax leviable under section 98 of the Finance (No. 2) Act, 2004 in case the taxable securities transactions are entered into by a non-resident through the International Financial Services Centre;

74 of 1956.

(g) exemption from the levy of taxes on the sale or purchase of goods other than newspapers under the Central Sales Tax Act, 1956 if such goods are meant to carry on the authorised operations by the Developer or entrepreneur.

(2) The Central Government may prescribe, the manner in which, and, the terms and conditions subject to which, the exemptions, concessions, draw back or other benefits shall be granted to the Developer or entrepreneur under sub-section (1).

43 of 1961.

27. The provisions of the Income-tax Act, 1961, as in force for the time being, shall apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special Economic Zone or Unit subject to the modifications specified in the Second Schedule.

Provisions of Income-tax Act, 1961 to apply with certain modification in relation to Developers and entrepreneurs.

28. The Central Government may prescribe the period during which any goods brought into, or services provided in, any Unit or Special Economic Zone without payment of taxes, duties or cess shall remain or continue to be provided in such Unit or Special Economic Zone.

Duration of goods or services in Special Economic Zones.

Transfer of ownership and removal of goods.

Domestic clearance by Units.

29. The transfer of ownership in any goods brought into, or produced or manufactured in, any Unit or Special Economic Zone or removal thereof from such Unit or Zone shall be allowed, subject to such terms and conditions as the Central Government may prescribe.

30. Subject to the conditions specified in the rules made by the Central Government in this behalf,—

(a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, where applicable, as leviable on such goods when imported; and

(b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.

51 of 1975.

CHAPTER VII

SPECIAL ECONOMIC ZONE AUTHORITY

Constitution of Authority.

31. (1) The Central Government shall, by notification in the Official Gazette, constitute, for every Special Economic Zone established by it before the commencement of this Act or which may be established after such commencement by the Central Government, an Authority to be called the (name of the Special Economic Zone) Authority to exercise the powers conferred on, and discharge the functions assigned to, it under this Act:

Provided that in respect of existing Special Economic Zones established by the Central Government, such Authority shall be constituted by the Central Government within six months from the date of commencement of this Act:

Provided further that until such Authority is constituted, the person or the authority (including the Development Commissioner) exercising control over such existing Special Economic Zones shall continue to exercise such control over the Special Economic Zone till the Authority is constituted.

(2) Every Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with a power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue and be sued.

(3) The head office of every Authority shall be at such place as the Central Government may specify in the notification referred to in sub-section (1).

(4) Any Authority may, with the previous approval of the Central Government, establish branch offices at other places in India.

(5) Every Authority shall consist of —

(a) the Development Commissioner of the Special Economic Zone over which the Authority exercises its jurisdiction—Chairperson, *ex officio*;

(b) two officers of the Central Government to be nominated by that Government having knowledge of, or experience in, dealing with matters relating to Special Economic Zones—Members, *ex officio*;

(c) an officer of the Government of India in the Ministry or Department dealing with commerce on matters relating to Special Economic Zone—Member, *ex officio*;

(d) not more than two persons, being entrepreneurs or their nominee, to be nominated by the Central Government—Members, *ex officio*.

(6) The term of office of the Members of an Authority (other than *ex officio* Members) and the manner of filling of vacancies shall be such as may be prescribed.

(7) An Authority may associate with itself in such manner, subject to such conditions and for such purposes as may be prescribed, any person whose assistance or advice it requires in discharging its functions effectively and that person shall be entitled to receive such allowances or fees as may be fixed by the Authority.

(8) One-third of the total Members of the Authority shall form a quorum, and all the acts of the Authority shall be decided by a majority of the Members present.

(9) No act or proceeding of an Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority;

or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

(10) Every Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.

32. (1) Every Development Commissioner of the Special Economic Zone, for which he is appointed as such, shall be the chief executive of the Authority concerned and exercise such powers and perform such functions as may be prescribed.

Officers of Authority and other staff.

(2) Every Authority may, in addition to the officers and employees transferred to it under section 33, appoint such other officers and employees, as it considers necessary for the efficient discharge of its functions under this Act.

(3) The method of appointment, the conditions of service and the scales of pay and allowances of such other officers and employees appointed under sub-section (2) shall be such as may be prescribed.

33. (1) It shall be lawful for the Central Government to transfer to each Authority, by order, and with effect from such date or dates, as may be specified in the order, any officer or other employee holding office as such (except officers or other employees on deputation) in the existing Special Economic Zone concerned:

Special provision for transfer of officers or other employees to Authority.

Provided that the scale of pay of the post to which such officer or other employee is transferred shall not be lower than the scale of pay of the post which he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer:

Provided further that if, immediately before the date of his transfer, any such officer or other employee is officiating in a higher post under the Central Government either in a leave vacancy or in any vacancy of a specified duration, his pay and other allowances, if any, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Central Government to which he would have reverted but for his transfer to the Authority.

(2) If any question arises as to whether the prescribed terms and conditions of service in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Authority, the decision of the Central Government in the matter shall be final.

34. (1) Subject to the provisions of this Act, it shall be the duty of each Authority to undertake such measures as it thinks fit for the development, operation and management of the Special Economic Zone for which it is constituted.

Functions of Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for —

(a) the development of infrastructure in the Special Economic Zone;

(b) promoting exports from the Special Economic Zone;

(c) reviewing the functioning and performance of the Special Economic Zone;

(d) levy user or service charges or fees or rent for the use of properties belonging to the Authority;

(e) performing such other functions as may be prescribed.

Grants and
loans by
Central
Government.
Constitution
of Fund and
its
application.

35. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to every Authority by way of grants and loans or such sums of money as that Government may think fit for being utilised for the purposes of this Act.

36. (1) There shall be established by every Authority a Fund to be called the..... (the name of the Special Economic Zone concerned) Authority Fund and there shall be credited thereto—

(a) all sums of money, which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide to the Authority;

(b) all grants or loans that may be made to the Authority under this Act;

(c) all sums received on account of user or service charges or fees or rent for the use of properties belonging to the Authority;

(d) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(b) the expenses of the Authority in the discharge of its functions under section 34;

(c) the repayment of any loan;

(d) the expenses on objects and for purposes authorised by this Act;

(e) any other administrative expenses of the Authority.

Accounts and
audit.

37. (1) Every Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of every Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of every Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Directions by
Central
Government.

38. Every Authority shall be bound to carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Returns and
reports.

39. (1) Every Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such

returns and statements and such particulars in regard to the promotion and development of exports and the operation and maintenance of the Special Economic Zone and Units as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), every Authority shall, as soon as possible, after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of every report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.

40. (1) If at any time the Central Government is of the opinion that an Authority is unable to perform, or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 38, the Central Government may, by notification, supersede that Authority for such period not exceeding six months, as may be specified in the notification:

Power to supersede Authority.

Provided that before issuing a notification under this sub-section, the Central Government shall give reasonable time to that Authority to make representation against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Authority shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period not exceeding six months; or

(b) reconstitute the Authority in the manner provided in section 31.

41. All Members, officers and other employees of every Authority, shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members, officers and other employees of Authority to be public servants.

CHAPTER VIII

MISCELLANEOUS

42. (1) Notwithstanding anything contained in any other law for the time being in force, if—

Reference of dispute.

(a) any dispute of civil nature arises among two or more entrepreneurs or two or more Developers or between an entrepreneur and a Developer in the Special Economic Zone; and

(b) the court or the courts to try suits in respect of such dispute had not been designated under sub-section (1) of section 23,

such dispute shall be referred to arbitration:

Provided that no dispute shall be referred to the arbitration on or after the date of the designation of the court or courts under sub-section (1) of section 23.

(2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Government.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred in settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

26 of 1996.

Limitation.

43. (1) The period of limitation in the case of any dispute which is required to be referred to arbitration shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute was a suit and the arbitrator is civil court.

36 of 1963.

(2) Notwithstanding anything contained in sub-section (1), the arbitrator may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the arbitrator that he had sufficient cause for not referring the dispute within such period.

Applicability of provisions of this Act to existing Special Economic Zones.

44. All the provisions of this Act (except sections 3 and 4) shall, as far as may be, apply to every existing Special Economic Zone.

Person to whom a communication may be sent under this Act.

45. A communication by any competent authority or person under this Act may be sent to the person who has the ultimate control over the affairs of the Special Economic Zone or Unit or where the said affairs are entrusted to a manager, director, chairperson, or managing director, or to any other officer, by whatever name called, such communication may be sent to such manager, director, chairperson, or managing director or any other officer.

Identity Card.

46. Every person, whether employed or residing or required to be present in a Special Economic Zone, shall be provided an identity card by every Development Commissioner of such Special Economic Zone, in such form and containing such particulars as may be prescribed.

Authorities responsible for administration.

47. Any authority which has been conferred upon any power, or, is, required to discharge any function under any Central or State Act, may, subject to the provisions of this Act, exercise such power or discharge such functions in any Special Economic Zone under that Act.

Protection of action taken in good faith.

48. No suit, prosecution or other legal proceeding shall lie against the Central Government or any Chairperson, Member, officer or other employee of the Board or the Approval Committee or the Authority or Development Commissioner for anything done or intended to be done in good faith under this Act.

Power to modify provisions of this Act or other enactments in relation to Special Economic Zones.

49. (1) The Central Government may, by notification, direct that any of the provision of this Act (other than sections 54 to 56) or any other Central Act or any rules or regulations made thereunder or any notification or order issued or direction given thereunder (other than the provisions relating to making of the rules or regulations) specified in the notification—

(a) shall not apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones; or

(b) shall apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones only with such exceptions, modification and adaptation, as may be specified in the notification.

Provided that nothing contained in this section shall apply to any modifications of any Central Act or any rule or regulation made thereunder or any notification or order issued or direction given or scheme made thereunder so far as such modification, rule, regulation, notification, order or direction or scheme relates to the matters relating to trade unions, industrial and labour disputes, welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits applicable in any Special Economic Zones.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

50. The State Government may, for the purposes of giving effect to the provisions of this Act, notify policies for Developers and Units and take suitable steps for enactment of any law—

Power of State Government to grant exemption.

(a) granting exemption from the State taxes, levies and duties to the Developer or the entrepreneur;

(b) delegating the powers conferred upon any person or authority under any State Act to the Development Commissioner in relation to the Developer or the entrepreneur.

51. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

52 of 1962.

52. (1) The provisions contained in the Chapter XA of the Customs Act, 1962 and the Special Economic Zones Rules, 2003 and the Special Economic Zones (Customs Procedure) Regulations, 2003 made thereunder shall not, with effect from such date as the Central Government by notification appoint, apply to the Special Economic Zones.

Certain provisions not to apply.

52 of 1962.

(2) Notwithstanding anything contained in sub-section (1), all offences committed, before the commencement of this Act, under any provisions of the Customs Act, 1962 and the Special Economic Zones Rules, 2003 and the Special Economic Zones (Customs Procedure) Regulations, 2003 made thereunder, shall continue to be governed by the said Act or rules, as the case may be.

(3) Anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any permission or authorisation or exemption granted or any document or instrument executed under the said provisions of the Act, rules and regulations referred to in sub-section (1) shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been done or taken or made or issued or granted under the corresponding provisions of the Act or rules or regulations referred to in that sub-section.

53. A Special Economic Zone shall, on and from the appointed day, be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorised operations.

Special Economic Zones to be ports, airports, inland container depots, land stations, etc., in certain cases.

52 of 1962.

(2) A Special Economic Zone shall, with effect from such date as the Central Government may notify, be deemed to be a port, airport, inland container depot, land station and land customs stations, as the case may be, under section 7 of the Customs Act, 1962:

Provided that for the purposes of this section, the Central Government may notify different dates for different Special Economic Zones.

Amendment
to First
Schedule.

54. (1) The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification add to, or as the case may be, omit from the First Schedule any enactment specified therein:

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to
make rules.

55. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the infrastructure facilities necessary for the development of the Special Economic Zones under clause (p) and services in the Special Economic Zones under clause (z) of section 2;

(b) the period within which the person concerned shall obtain the concurrence of the State Government under sub-section (3) of section 3;

(c) the form and the manner in which a proposal may be made and the particulars to be contained therein under sub-section (5) of section 3;

(d) the period within which the State Government may forward the proposal together with its recommendation under sub-section (6) of section 3;

(e) the requirements subject to which the Board may approve, modify or reject the proposal under sub-section (8) of section 3;

(f) the period within which the grant of letter of approval shall be communicated to the State Government or Developer or entrepreneur under sub-section (10) of section 3;

(g) the other requirements for notifying the specifically identified area in a State as a Special Economic Zone under sub-section (1) of section 4;

(h) the terms, conditions and limitations subject to which the goods or services exported out of, or imported into, or procured from the Domestic Tariff Area to, a Special Economic Zone, be exempt from payment of taxes, duties, or cess under section 7;

(i) the procedure for transfer of letter of approval in case of suspension of letter of approval of a Developer under clause (a) of sub-section (9) of section 10;

(j) the form and the manner in which a proposal may be submitted and the particulars to be contained therein under sub-section (1) of section 15;

(k) the time within which a person aggrieved by the order of the Approval Committee may prefer an appeal under sub-section (4) of section 15;

(l) the form in which the appeal shall be made and the fees for making such appeal under sub-section (6) of section 15;

(m) the procedure for disposing of an appeal under sub-section (7) of section 15;

(n) the requirements (including the period for which a Unit may be set up) subject to which the proposal may be approved, modified or rejected under clause (a) of sub-section (8) of section 15;

- (o) the terms and conditions for the Unit subject to which it shall undertake authorised operations under clause (b) of sub-section (8) of section 15 and the obligations and entitlements of the Unit;
- (p) the time within which a person aggrieved by the order of the Approval Committee may prefer an appeal under sub-section (4) of section 16;
- (q) the form in which the appeal shall be made and the fees for making such appeal under sub-section (6) of section 16;
- (r) the procedure for disposing of an appeal under sub-section (7) of section 16;
- (s) the form and the manner in which an application may be made for setting up of an Offshore Banking Unit in a Special Economic Zone under sub-section (1) of section 17;
- (t) the requirements for setting up and operation of an International Financial Services Centre in a Special Economic Zone under sub-section (1) of section 18;
- (u) the requirements and terms and conditions subject to which a Unit in the International Financial Services Centre may be set up and operated in a Special Economic Zone under sub-section (2) of section 18;
- (v) the form of single application for obtaining any licence, permission or registration or approval under clause (a) of section 19;
- (w) the form of single return or information to be furnished by an entrepreneur or Developer under clause (c) of section 19;
- (x) the manner in which and the terms and conditions subject to which the exemptions, concessions, draw back or other benefits shall be granted to every Developer and entrepreneur under sub-section (2) of section 26;
- (y) the period during which any goods brought into, or services provided in, any Special Economic Zone shall remain or continue to be provided in such Unit or Special Economic Zone under section 28;
- (z) the terms and conditions subject to which transfer of ownership in any goods brought into, or produced or manufactured in, any Unit or Special Economic Zone, or removal thereof from such Unit or Zone, shall be allowed under section 29;
- (za) the conditions subject to which the Units shall be entitled to sell the goods manufactured in a Special Economic Zone to the Domestic Tariff Area under section 30;
- (zb) the term of office of the Members, other than *ex officio* Members, of every Authority and the manner of filling of vacancies under sub-section (6) of section 31;
- (zc) the manner in which and the conditions subject to which and the purposes for which any person may be associated under sub-section (7) of section 31;
- (zd) the times and the places of meetings and the procedure to be followed in the transaction of business at the meetings under sub-section (10) of section 31;
- (ze) the powers and the functions of every Development Commissioner under sub-section (1) of section 32;
- (zf) the method of appointment of officers and other employees of every Authority, conditions of their service and the scale of pay and allowances under sub-section (3) of section 32;
- (zg) the other functions to be performed by the Authority under clause (e) of sub-section (2) of section 34;

(zh) the form in which the accounts and other relevant records of every Authority shall be maintained and annual statement of accounts shall be prepared under sub-section (1) of section 37;

(zi) the form and the manner in which and the time at which every Authority shall furnish returns and statements and other particulars to the Central Government under sub-section (1) of section 39;

(zj) the form in which and the date before which every Authority shall furnish to the Central Government the report of its activities, policy and programmes under sub-section (2) of section 39;

(zk) the form in which and the particulars to be contained in the identity cards under section 46;

(zl) any other matter which, is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiration of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment
of certain
enactments.

57. With effect from such date as the Central Government may, by notification, appoint, the enactments specified in the Third Schedule shall be amended in the manner specified therein:

Provided that different dates may be appointed on which the amendments specified in the Third Schedule shall apply to a particular Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones.

Savings.

58. All rules made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the Special Economic Zones shall, in so far as they relate to matters for which provision is made in this Act or rules made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules made or notifications issued under this Act.

THE FIRST SCHEDULE

(See sections 7 and 54)

ENACTMENTS

1. The Agricultural Produce Cess Act, 1940 (27 of 1940).
2. The Coffee Act, 1942 (7 of 1942).
3. The Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946).
4. The Rubber Act, 1947 (24 of 1947).
5. The Tea Act, 1953 (29 of 1953).
6. The Salt Cess Act, 1953 (49 of 1953).
7. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955).
8. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957).
9. The Sugar (Regulation of Production) Act, 1961 (55 of 1961).
10. The Textiles Committee Act, 1963 (41 of 1963).
11. The Produce Cess Act, 1966 (15 of 1966).
12. The Marine Products Export Development Authority Act, 1972 (13 of 1972).
13. The Coal Mines (Conservation and Development) Act, 1974 (28 of 1974).
14. The Oil Industry (Development) Act, 1974 (47 of 1974).
15. The Tobacco Cess Act, 1975 (26 of 1975).
16. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978).
17. The Sugar Cess Act, 1982 (3 of 1982).
18. The Jute Manufactures Cess Act, 1983 (28 of 1983).
19. The Agricultural and Processed Food Products Export Cess Act, 1985 (3 of 1986).
20. The Spices Cess Act, 1986 (11 of 1986).
21. The Research and Development Cess Act, 1986 (32 of 1986).

THE SECOND SCHEDULE

(See section 27)

MODIFICATIONS TO THE INCOME-TAX ACT, 1961

(43 OF 1961)

(a) in section 10,—

(A) in clause (15), after sub-clause (vii), the following clause shall be inserted at the end, namely:—

“(viii) any income by way of interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after the 1st day of April, 2005, in an Offshore Banking Unit referred to in clause (u) of section 2 of the Special Economic Zones Act, 2005;”;

(B) in clause (23G), after the words, brackets, figures and letters “sub-section (4) of section 80-IA”, the words, brackets, figures and letters “or sub-section (3) of section 80-IAB” shall be inserted;

(C) in clause (34), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur.”;

(b) in section 10A, after sub-section (7A), the following sub-section shall be inserted, namely:—

“(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.”;

(c) after section 10A, the following section shall be inserted, namely:—

‘10AA. (1) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (j) of section (2) of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2006, a deduction of—

(i) hundred per cent. of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent. of such profits and gains for further five assessment years and thereafter;

(ii) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the “Special Economic Zone Re-investment Reserve Account”) to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (2).

(2) The deduction under clause (ii) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised—

Special provisions in respect of newly established Units in Special Economic Zones.

(i) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(ii) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (b) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (ii) of sub-section (1),—

(a) has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (2), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (2),

and shall be charged to tax accordingly:

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (ii) of sub-section (1):

Explanation.—For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section:

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone:

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (ii) of sub-section (1) with effect from the 1st day of April, 2006.

(4) This section applies to any undertaking being the Unit, which has begun or begins to manufacture or produce articles or things or services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006, in any Special Economic Zone;

(5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(6) Loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(7) For the purposes of sub-section (1), the profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.

(8) The provisions of sub-sections (5) and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if—

(a) for the figures, letters and word "1st April, 2001", the figures, letters and word "1st April, 2006" had been substituted;

(b) for the word "undertaking", the words "undertaking, being the Unit" had been substituted.

(9) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation 1.—For the purposes of this section,—

(i) "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(ii) "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(iii) "manufacture" shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005;

(iv) "relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(v) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clause (za) and (zc) of section 2 of the Special Economic Zones Act, 2005.

Explanation 2.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India;

(d) after section 54G, the following section shall be inserted, namely:—

"54GA. (1) Notwithstanding anything contained in section 54G, where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of the shifting of such industrial undertaking to any Special Economic Zone, whether developed in any urban area or any other area and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

(a) purchased machinery or plant for the purposes of business of the industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;

(b) acquired building or land or constructed building for the purposes of his business in the Special Economic Zone;

(c) shifted the original asset and transferred the establishment of such undertaking to the Special Economic Zone; and

(d) incurred expenses on such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall, subject to the provisions of sub-section (2), be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be Nil; or

(ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section,—

(a) "Special Economic Zone" shall have the meaning assigned to it in clause (za) of the Special Economic Zones Act, 2005;

(b) "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the aforesaid purposes together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within the period specified in that sub-section, then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.”;

(e) in section 80-IA, after sub-section (12), the following section shall be inserted, namely:—

“(13) Nothing contained in this section shall apply to any Special Economic Zones notified on or after the 1st day of April, 2005 in accordance with the scheme referred to in sub-clause (iii) of clause (c) of sub-section (4).”;

(f) after section 80-IA, the following section shall be inserted, namely:—

“80-IAB. (1) Where the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st day of April, 2005 under the Special Economic Zones Act, 2005, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent. of the profits and gains derived from such business for ten consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which a Special Economic Zone has been notified by the Central Government:

Provided that where in computing the total income of any undertaking, being a Developer for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (13) of section 80-IA, the undertaking being the Developer shall be entitled to deduction referred to in this section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in sub-section (1) or sub-section (2), as the case may be:

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

Provided further that in a case where an undertaking, being a Developer who develops a Special Economic Zone on or after the 1st day of April, 2005 and transfers the operation and maintenance of such Special Economic Zone to another Developer (hereafter in this section referred to as the transferee Developer), the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.

(3) The provisions of sub-section (5) and sub-sections (7) to (12) of section 80-IA shall apply to the Special Economic Zones for the purpose of allowing deductions under sub-section (1).

Explanation.—For the purposes of this section, “Developer” and “Special Economic Zone” shall have the same meanings respectively as assigned to them in clauses (g) and (za) of section 2 of the Special Economic Zones Act, 2005.”;

(g) for section 80LA, the following section shall be substituted, namely:—

‘80LA. (1) Where the gross total income of an assessee,—

(i) being a scheduled bank, or, any bank incorporated by or under the laws of a country outside India; and having an Offshore Banking Unit in a Special Economic Zone; or

(ii) being a Unit of an International Financial Services Centre,

includes any income referred to in sub-section (2), there shall be allowed, in accordance with and subject to the provisions of this section, a deduction from such income, of an amount equal to—

(a) one hundred per cent. of such income for five consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission, under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law was obtained, and thereafter;

(b) fifty per cent. of such income for five consecutive assessment years.

(2) The income referred to in sub-section (1) shall be the income—

(a) from an Offshore Banking Unit in a Special Economic Zone; or

(b) from the business referred to in sub-section (1) of section 6 of the Banking Regulation Act, 1949 with an undertaking located in a Special Economic Zone or any other undertaking which develops, develops and operates or develops, operates and maintains a Special Economic Zone; or

(c) from any Unit of the International Financial Services Centre from its business for which it has been approved for setting up in such a Centre in a Special Economic Zone.

(3) No deduction under this section shall be allowed unless the assessee furnishes along with the return of income,—

(i) the report, in the form specified by the Central Board of Direct Taxes under clause (i) of sub-section (2) of section 80LA, as it stood immediately before its substitution by this section, of an accountant as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section; and

(ii) a copy of the permission obtained under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949.

Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre.

10 of 1949.
15 of 1992.

10 of 1949.

10 of 1949.

Explanation.—For the purposes of this section,—

(a) “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;

(b) “scheduled bank” shall have the same meaning as assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

(c) “Special Economic Zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005;

(d) “Unit” shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005;

(h) in section 115JB, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The provisions of this section shall not apply to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be.”

(i) in section 115-0, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Notwithstanding anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2005 out of its current income either in the hands of the Developer or enterprise, or the person receiving such dividend not falling under clause (23G) of section 10.”

(j) in section 197A, after sub-section (1C), the following sub-section shall be inserted, namely:—

“(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(a) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or

(b) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

Explanation.—For the purposes of this sub-section “Offshore Banking Unit” shall have the same meaning as assigned to it in clause (u) of section 2 of the Special Economic Zones Act, 2005.”

THE THIRD SCHEDULE

(See section 57)

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE INSURANCE ACT, 1938

(4 of 1938)

1. In section 2C, in sub-section (1), after the third proviso, insert:—

“Provided also an insurer, being an Indian Insurance Company, insurance co-operative society or a body corporate referred to in clause (c) of this sub-section carrying on the business of insurance, may carry on any business of insurance in any Special Economic Zone as defined in clause (za) of section 2 of the Special Economic Zones Act, 2005.”

2. After section 2C, insert—

"2CA. The Central Government may, by notification, direct that any of the provisions of this Act,—

(a) shall not apply to insurer, being an Indian Insurance Company, insurance co-operative society or a body corporate referred to in clause (c) of sub-section (1) of section 2C, carrying on the business of insurance, in any Special Economic Zone as defined in clause (za) of section 2 of the Special Economic Zones Act, 2005; or

(b) shall apply to any insurer, being an Indian Insurance Company, insurance co-operative society or a body corporate referred to in clause (c) of sub-section (1) of section 2C, carrying on the business of insurance, in any Special Economic Zone as defined in clause (za) of section 2 of the Special Economic Zones Act, 2005 only with such exceptions, modifications and adaptations as may be specified in the notification."

Power of Central Government to apply provisions of this Act to Special Economic Zones.

PART II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

1. Section 53 shall be renumbered as sub-section (1) thereof and in sub-section (1) as so re-numbered, for "banking company or institution or to any class of banking companies", substitute,—

"banking company or institution or to any class of banking companies or any of their branches functioning or located in any Special Economic Zone established under the Special Economic Zones Act, 2005."

2. After sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses."

PART III

AMENDMENT TO THE INDIAN STAMP ACT, 1899

(2 OF 1899)

In section 3, in the proviso, after clause (2), insert,—

"(3) any instrument executed, by, or, on behalf of, or, in favour of, the Developer, or Unit or in connection with the carrying out of purposes of the Special Economic Zone.

Explanation.—For the purposes of this clause, the expressions "Developer", "Special Economic Zone" and "Unit" shall have meanings respectively assigned to them in clause (g), (za) and (zc) of section 2 of the Special Economic Zones Act, 2005."

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 8th December, 2005.

No. RPB/33-2005/Act-31-05/E :— The following Act of Parliament is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 23rd June, 2005/Jaystha 26, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005 is hereby published for general information :—

THE HIRE-PURCHASE (REPEAL) ACT, 2005,

AN
ACT

(Act No. 31 of 2005)

(23rd June, 2005)

to repeal the Hire-purchase Act, 1972.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Hire-purchase (Repeal) Act, 2005.

Short title.

2. The Hire-purchase Act, 1972 is hereby repealed.

Repeal of Act
26 of 1972.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 8th December, 2005.

No. RPB/39-2005/Act-32-05/E :— The following Act of Parliament is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 25th August, 2005/Bhadra 3, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 24th August, 2005 is hereby published for general information :—

THE CITIZENSHIP (AMENDMENT) ACT, 2005,

AN
ACT

(Act No. 32 of 2005)

(24th August, 2005)

further to amend the Citizenship Act, 1955.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizenship (Amendment) Act, 2005.

Short title and commencement.

(2) It shall be deemed to have come into force on the 28th day of June, 2005.

57 of 1955.

2. In section 2 of the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in sub-section (1),—

Amendment of section 2.

(i) for clause (ee), the following clause shall be substituted, namely:—

'(ee) "overseas citizen of India" means a person registered as an overseas citizen of India by the Central Government under section 7A;'

(ii) clause (gg) shall be omitted.

Amendment
of section 5.

3. In section 5 of the principal Act, in sub-section (1), in clause (g), for the words "two years", the words "one year" shall be substituted.

Substitution
of new section
for section 7A.

4. For section 7A of the principal Act, the following section shall be substituted, namely:—

Registration
of overseas
citizens of
India.

"7A. The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register as an overseas citizen of India—

(a) any person of full age and capacity,—

(i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or

(ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grand-child of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a):

Provided that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India."

Omission
of Fourth
Schedule.

5. The Fourth Schedule to the principal Act shall be omitted.

Repeal and
saving.

6. (1) The Citizenship (Amendment) Ordinance, 2005 is hereby repealed.

Ord. 2 of
2005.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th December, 2005.

No. RPB/40-2005/Act-38-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 6th September, 2005/Bhadra 15, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 5th September, 2005 is hereby published for general information :-

THE DISPLACED PERSONS CLAIMS AND OTHER LAWS REPEAL ACT, 2005, AN ACT

(Act No. 38 of 2005)

(5th September, 2005)

to repeal the Displaced Persons (Claims) Act, 1950 and certain other enactments.

BE it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:—

1. This Act may be called the Displaced Persons Claims and other Laws Repeal Act, 2005. Short title.

2. The enactments specified in the Schedule are hereby repealed.

Repeal of
enactments.

THE SCHEDULE

(See section 2)

REPEAL OF ENACTMENTS

Sl. No.	Name of the Act	Year	Act No.
1.	The Administration of Evacuee Property Act	1950	31
2.	The Displaced Persons (Claims) Act	1950	44
3.	The Evacuee Interest (Separation) Act	1951	64
4.	The Displaced Persons (Claims) Supplementary Act	1954	12
5.	The Displaced Persons (Compensation and Rehabilitation) Act	1954	44

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 7th December, 2005.

No. RPB/41-2005/Act-39-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE Legislative Department

New Delhi, the 6th September, 2005/Bhadra 15, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 5th September, 2005 is hereby published for general information :-

THE HINDU SUCCESSION (AMENDMENT) ACT, 2005,

AN
ACT

(Act No. 39 of 2005)

(5th September, 2005)

further to amend the Hindu Succession Act, 1956.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Succession (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

30 of 1956.

2. In section 4 of the Hindu Succession Act, 1956 (hereinafter referred to as the principal Act), sub-section (2) shall be omitted.

Amendment
of section 4.

3. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 6.

‘6. (1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,—

Devolution of
interest in
coparcenary
property.

(a) by birth become a coparcener in her own right in the same manner as the son;

(b) have the same rights in the coparcenary property as she would have had if she had been a son;

(c) be subject to the same liabilities in respect of the said coparcenary property as that of a son,

and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:

Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

(2) Any property to which a female Hindu becomes entitled by virtue of sub-section (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act, or any other law for the time being in force, as property capable of being disposed of by her by testamentary disposition.

(3) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005, his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if a partition had taken place and,—

(a) the daughter is allotted the same share as is allotted to a son;

(b) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and

(c) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Explanation.— For the purposes of this sub-section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no court shall recognise any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this sub-section shall affect—

(a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or

(b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.

Explanation.—For the purposes of clause (a), the expression "son", "grandson" or "great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005.

(5) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004.

Explanation.—For the purposes of this section "partition" means any partition made by execution of a deed of partition duly registered under the Registration Act, 1908 or partition effected by a decree of a court.

16 of 1908.

4. Section 23 of the principal Act shall be omitted.

Omission of section 23.

5. Section 24 of the principal Act shall be omitted.

Omission of section 24.

6. In section 30 of the principal Act, for the words "disposed of by him", the words "disposed of by him or by her" shall be substituted.

Amendment of section 30.

7. In the Schedule to the principal Act, under the sub-heading "Class 1", after the words "widow of a pre-deceased son of a pre-deceased son", the words "son of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son" shall be added.

Amendment of Schedule.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 7th December, 2005.

No. RPB/32-2005/Act-42-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE Legislative Department

New Delhi, the 7th September, 2005/Bhadra 16, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 5th September, 2005, is hereby published for general information :-

THE NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005,

AN
ACT

(Act No. 42 of 2005)

(5th September, 2005)

to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Rural Employment Guarantee Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it extends within a period of five years from the date of enactment of this Act.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "adult" means a person who has completed his eighteenth years of age;
- (b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the Scheme;
- (c) "Block" means a community development area within a district comprising a group of Gram Panchayats;
- (d) "Central Council" means the Central Employment Guarantee Council constituted under sub-section (1) of section 10;
- (e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;
- (f) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;
- (g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat at intermediate level, Gram Panchayat or any local authority or Government undertaking or non-governmental organisation authorised by the Central Government or the State Government to undertake the implementation of any work taken up under a Scheme;
- (h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area; 11 of 1948.
- (i) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;
- (j) "notification" means a notification published in the Official Gazette;
- (k) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme;
- (n) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;
- (o) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;
- (p) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4;
- (q) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;
- (r) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;
- (s) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State as may be notified by the Central Government, provide to every household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

Guarantee of rural employment to households.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Employment Guarantee Schemes for rural areas.

Provided that until any such Scheme is notified by the State Government, the Annual Action Plan or Perspective Plan for the *Sampoorna Grameen Rozgar Yojana* (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before such notification shall be deemed to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (1) shall provide for the minimum features specified in Schedule I.

5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.

Conditions for providing guaranteed employment.

(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

11 of 1948.

6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas:

Provided further that the wage rate specified from time to time under any such notification shall not be at a rate less than sixty rupees per day.

11 of 1948.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

Payment of
unemployment
allowance.

7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as—

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority (including the Panchayats at the district, intermediate or village level) as the State Government may, by notification, authorise in this behalf.

(5) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-
disbursement
of
unemployment
allowance in
certain
circumstances.

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government along with the reasons for such non-payment or delayed payment.

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under sub-section (1) to the concerned household as expeditiously as possible.

Disentitlement
to receive
unemployment
allowance in
certain
circumstances.

9. An applicant who—

(a) does not accept the employment provided to his household under a Scheme;

or

(b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

10. (1) With effect from such date as the Central Government may, by notification specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.

Central
Employment
Guarantee
Council.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The Central Council shall consist of the following members to be appointed by the Central Government, namely:—

(a) a Chairperson;

(b) not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government;

(c) not more than such number of representatives of the State Governments as may be determined by the Central Government;

(d) not more than fifteen non-official members representing Panchayati Raj Institutions, organisations of workers and disadvantaged groups:

Provided that such non-official members shall include two chairpersons of District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities;

(e) such number of representatives of the States as the Central Government may, by rules, determine in this behalf;

(f) a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council shall be such as may be prescribed by the Central Government.

11. (1) The Central Council shall perform and discharge the following functions and duties, namely:—

Functions and
duties of
Central
Council.

(a) establish a central evaluation and monitoring system;

(b) advise the Central Government on all matters concerning the implementation of this Act;

(c) review the monitoring and redressal mechanism from time to time and recommend improvements required;

(d) promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

State
Employment
Guarantee
Council.

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the(name of the State) State Employment Guarantee Council with a Chairperson and such number of official members as may be determined by the State Government and not more than fifteen non-official members nominated by the State Government from Panchayati Raj institutions, organisations of workers and disadvantaged groups:

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as may be prescribed by the State Government.

(3) The duties and functions of the State Council shall include—

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(f) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

13. (1) The Panchayats at district, intermediate and village levels shall be the principal authorities for planning and implementation of the Schemes made under this Act.

Principal authorities for planning and implementation of Schemes.

(2) The functions of the Panchayats at the district level shall be—

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the Scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(3) The functions of the Panchayat at intermediate level shall be—

(a) to approve the Block level Plan for forwarding it to the district Panchayat at the district level for final approval;

(b) to supervise and monitor the projects taken up at the Gram Panchayat and Block level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Panchayat at the district level in discharging its functions under this Act and any Scheme made thereunder.

14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district.

District Programme Coordinator.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder.

(3) The functions of the District Programme Coordinator shall be—

(a) to assist the district Panchayat in discharging its functions under this Act and any scheme made thereunder;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Panchayat at district level;

(c) to accord necessary sanction and administrative clearance, wherever necessary;

(d) to coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Coordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand

for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the district panchayat.

Programme
Officer.

15. (1) At every Panchayat at intermediate level, the State Government shall appoint a person who is not below the rank of Block Development Officer with such qualifications and experience as may be determined by the State Government as Programme Officer at the Panchayat at intermediate level.

(2) The Programme Officer shall assist the Panchayat at intermediate level in discharging its functions under this Act and any Scheme made thereunder.

(3) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(4) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(5) The functions of the Programme Officer shall include—

(a) monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;

(b) sanctioning and ensuring payment of unemployment allowance to the eligible households;

(c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

(d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;

(e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

(f) any other work as may be assigned to him by the District Programme Coordinator or the State Government.

(6) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(7) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities
of the Gram
Panchayats.

16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer shall allot at least fifty per cent. of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with—

(a) the muster-rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

Social audit of work by Gram Sabha.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Responsibilities of State Government in implementing Scheme.

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Grievance redressal mechanism.

CHAPTER V

ESTABLISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE FUNDS AND AUDIT

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act.

National Employment Guarantee Fund.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilised in such manner and subject to such conditions and limitations as may be prescribed by the Central Government.

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme.

State Employment Guarantee Fund.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act.

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:—

Funding pattern.

(a) the amount required for payment of wages for unskilled manual work under the Scheme;

(b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:—

(a) the cost of unemployment allowance payable under the Scheme;

(b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) the administrative expenses of the State Council.

Transparency
and
accountability.

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilisation and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates.

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

Audit of
accounts.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

Penalty
for non-
compliance.

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Power to
delegate.

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

27. (1) The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

Power of Central Government to give directions.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may, on receipt of any complaint regarding the issue or improper utilisation of funds granted under this Act in respect of any Scheme if *prima facie* satisfied that there is a case, cause an investigation into the complaint made by any agency designated by it and if necessary, order stoppage of release of funds to the Scheme and institute appropriate remedial measures for its proper implementation within a reasonable period of time.

28. The provisions of this Act or the Schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law:

Act to have overriding effect.

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

29. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly.

Power to amend Schedules.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

Protection of action taken in good faith.

45 of 1860.

31. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilised under sub-section (3) of section 20;

(d) the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

(b) the procedure for payment of unemployment allowance under sub-section (6) of section 7;

(c) the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(e) the manner in which and the conditions and limitations subject to which the State Fund shall be utilised under sub-section (2) of section 21;

(f) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21;

(g) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(h) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(i) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(j) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the State Government by rules.

Laying of
rules and
Schemes.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
remove
difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:—
 - (i) water conservation and water harvesting;
 - (ii) drought proofing (including afforestation and tree plantation);
 - (iii) irrigation canals including micro and minor irrigation works;
 - (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes or to land of beneficiaries of land reforms or that of the beneficiaries under the Indira Awas Yojana of the Government of India;
 - (v) renovation of traditional water bodies including desilting of tanks;
 - (vi) land development;
 - (vii) flood control and protection works including drainage in water logged areas;
 - (viii) rural connectivity to provide all-weather access; and
 - (ix) any other work which may be notified by the Central Government in consultation with the State Government.
2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.
3. The works taken up under the scheme shall be in rural areas.
4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.
5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.
6. Under no circumstances shall the labourers be paid less than the wage rate.
7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.
8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working for seven hours would normally earn a wage equal to the wage rate.
9. The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent. of the total project costs.
10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.
11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.
12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.
13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.
14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.

15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.

16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.

17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

1. The adult members of every household who—

- (i) reside in any rural areas; and
- (ii) are willing to do unskilled manual work,

may submit their names, age and the address of the household to the Gram Panchayat at the village level (hereafter in this Schedule referred to as the Gram Panchayat) in the jurisdiction of which they reside for registration of their household for issuance of a job card.

2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.

3. The registration made under paragraph 2 shall be for such period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.

4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.

5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.

6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later:

Provided that priority shall be given to women in such a way that at least one-third of the beneficiaries shall be women who have registered and requested for work under this Act.

7. Applications for work must be for at least fourteen days of continuous work.

8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.

9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.

10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.

11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Panchayats at the district, intermediate or village level.

12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if—

(a) at least fifty labourers become available for such work; and

(b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block; and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of twenty-five thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women worker to look after such children.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

Sd/-

B. A. AGARWAL,
Additional Secretary to the
Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 8th December, 2005.

No. RPB/43-2005/Act-44-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 16th September, 2005/Bhadra 25, 1927 (Saka).

The following Act of Parliament received the assent of the President on the 15th September, 2005, is hereby published for general information :-

THE IMMIGRATION (CARRIERS' LIABILITY) AMENDMENT ACT, 2005,
AN
ACT

(Act No. 44 of 2005)

(15th September, 2005)

to amend the Immigration (Carriers' Liability) Act, 2000.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Immigration (Carriers' Liability) Amendment Act, 2005. Short title.

2. After section 3 of the Immigration (Carriers' Liability) Act, 2000, the following section shall be inserted, namely:—

Insertion of
new section
3A to Act 52
of 2000.

34 of 1920.

"3A. (1) Without prejudice to the provisions of the Passport (Entry into India) Act, 1920 and the rules made thereunder, if the Central Government is of opinion that it is necessary or expedient in the interest of the general public or to fulfil the

Power to
exempt.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th December, 2005.

No. RPB/44-2005/Act-45-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 16th September, 2005/Bhadra 25, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th September, 2005, is hereby published for general information :-

THE WAREHOUSING CORPORATIONS (AMENDMENT) ACT, 2005,

AN
ACT

(Act No. 45 of 2005)

(15th September, 2005)

further to amend the Warehousing Corporations Act, 1962.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Warehousing Corporations (Amendment) Act, 2005.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

58 of 1962.

2. In section 7 of the Warehousing Corporations Act, 1962 (hereinafter referred to as the principal Act),—

Amendment
of section 7.

(a) in sub-section (1),—

(i) clause (b) shall be omitted;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) three directors to be appointed by the Central Government;”;

(b) in sub-section (4), the words "and a Vice-Chairman" shall be omitted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The directors appointed under clause (ff) of sub-section (1) shall be entitled to receive such salary and allowances as the Central Warehousing Corporation may, with the approval of the Central Government, determine."

Amendment
of section 8.

3. In section 8 of the principal Act, in clause (v), for the words "the managing director", the words, brackets, letters and figures "the directors appointed under clause (ff) of sub-section (1) of section 7 and the managing director" shall be substituted.

Amendment
of section 12.

4. In section 12 of the principal Act,—

(a) in sub-section (1), in clause (a), the words "and the Vice-Chairman" shall be omitted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Chairman of the board of directors shall be the Chairman of the Executive Committee."

Amendment
of section 27.

5. In section 27 of the principal Act, in sub-section (2), in clause (iii), for the words "nationalised bank", the words "scheduled bank" shall be substituted.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 7th December, 2005.

No. RPB/45-2005/Act-46-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 16th September, 2005/Bhadra 25, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th September, 2005, is hereby published for general information :-

THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT ACT, 2005,

AN
ACT

(Act No. 46 of 2005)

(15th September, 2005)

*further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954
and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2005.

Short title
and
commencement

(2) It shall be deemed to have come into force on the 1st day of April, 2004.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)
ACT, 1954Amendment
of section 17A.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 17A, in sub-section (1),—

28 of 1954.

(i) after the words "family pension calculated at the rate of fifty per cent of his salary", the words "plus fifty per cent of his dearness pay" shall be inserted;

(ii) for the words "and thereafter at the rate of thirty per cent of his salary subject to a minimum of twelve hundred and seventy-five rupees per month", the words "and thereafter at the rate of thirty per cent of his salary plus thirty per cent of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month" shall be substituted.

Amendment
of section
22A.

3. In section 22A of the High Court Judges Act, in sub-section (2), for the words "of ten thousand rupees", the words "equivalent to an amount of thirty per cent of the salary plus thirty per cent of the dearness pay" shall be substituted.

Amendment
of section
22C.

4. In section 22C of the High Court Judges Act, for the words "three thousand" and "two thousand", the words "seven thousand five hundred" and "six thousand" shall respectively be substituted.

Amendment
of the First
Schedule.

5. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (a), for the letters and figures "Rs. 14,630", the letters and figures "Rs. 21,945" shall be substituted;

(B) in clause (b), for the letters and figures "Rs. 11,150", the letters and figures "Rs. 16,725" shall be substituted;

(C) in the proviso, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted;

(ii) in paragraph 8, for the letters and figures "Rs. 1,80,000", the letters and figures "Rs. 2,70,000" shall be substituted;

(iii) in paragraph 9, for the letters and figures "Rs. 51,190", the letters and figures "Rs. 76,785" shall be substituted;

(b) in Part II,—

(i) in the proviso to paragraph 2, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted;

(ii) in paragraph 3, for the figures "11,265", "13,520", "15,766", "18,022", "20,280" and "22,533", the figures "16,898", "20,280", "23,649", "27,033", "30,420" and "33,799" shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 5,200", the letters and figures "Rs. 7,800" shall be substituted;

(B) in the proviso, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

- 41 of 1958. 6. In section 13 of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), clause (a) shall be omitted. Amendment of section 13.
7. After section 13 of the Supreme Court Judges Act, the following section shall be inserted, namely:— Insertion of new section 13A.
- "13A. Subject to the provisions of this Act, a period of ten years shall be added to the service of a Judge for the purposes of his pension, who qualified for appointment as such judge under sub-clause (b) of clause (3) of article 124 of the Constitution." Benefit of added years of service.
8. In the Supreme Court Judges Act, in section 16A, in sub-section (1),— Amendment of section 16A.
- (i) in clause (a),—
- (A) after the words "family pension calculated at the rate of fifty per cent of his salary", the words "plus fifty per cent of his dearness pay" shall be inserted;
- (B) after the words "and thereafter at the rate of thirty per cent of his salary", the words "plus thirty per cent of his dearness pay" shall be inserted;
- (ii) in clause (b), after the words "family pension shall be thirty per cent of his salary", the words "plus thirty per cent of his dearness pay" shall be inserted.
9. In section 23 of the Supreme Court Judges Act, in sub-section (1A), for the words "of ten thousand rupees", the words "equivalent to an amount of thirty per cent of the salary plus thirty per cent of the dearness pay" shall be substituted. Amendment of section 23.
10. In section 23B of the Supreme Court Judges Act, for the words "four thousand" and "three thousand", the words "ten thousand" and "seven thousand five hundred" shall respectively be substituted. Amendment of section 23B.
11. In the Schedule to the Supreme Court Judges Act,— Amendment of the Schedule.
- (a) in Part I,—
- (i) in paragraph 2,—
- (A) the words "and who has completed not less than seven years of service for pension as a Judge in India" shall be omitted;
- (B) in clause (b), for the letters and figures "Rs. 4,020", "Rs. 1,21,880" and "Rs. 10,240", the letters and figures "Rs. 6,030", "Rs. 1,82,820" and "Rs. 15,360" shall respectively be substituted;
- (C) in the proviso, for the letters and figures "Rs. 1,98,000", the letters and figures "Rs. 2,97,000" shall be substituted;

(ii) in paragraph 3,—

(A) the words “and who has completed not less than seven years of service for pension as a Judge in India” shall be omitted;

(B) in the proviso, for the letters and figures “Rs. 1,80,000”, the letters and figures “Rs. 2,70,000” shall be substituted;

(iii) paragraph 5 shall be omitted;

(b) in Part II,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 11,265”, the letters and figures “Rs. 16,898” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 5,200”, the letters and figures “Rs. 7,800” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted.

Sd/-

T. K. VISWANATHAN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

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EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th December, 2005.

No. RPB/47-2005/Act-41-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 6th September, 2005/Bhadra 15, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 5th September, 2005, is hereby published for general information :-

THE PAYMENT OF WAGES (AMENDMENT) ACT, 2005, AN ACT

(Act No. 41 of 2005)

(5th September, 2005)

further to amend the Payment of Wages Act, 1936.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Wages (Amendment) Act, 2005.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and
commencement.

4 of 1936.

2. In section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the principal Act), for sub-section (6), the following sub-section shall be substituted, namely:—

Amendment
of section 1.

“(6) This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed six thousand five hundred rupees per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify.”

Substitution
of references
to certain
expressions
by other
expression.

Amendment
of section 2.

3. Throughout the principal Act, unless otherwise expressly provided for, the expressions "the Central Government or a State Government" and "the State Government", wherever they occur, the expression "appropriate Government" shall be substituted and such other consequential amendments as the rules of grammar may require shall also be made.

4. In section 2 of the principal Act,—

(a) clauses (i), (ia) and (ib) shall be re-numbered as clauses (ia), (ib) and (ic), respectively, and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:—

'(i) "appropriate Government" means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government;'

(b) for clause (v), the following clause shall be substituted, namely:—

'(v) "railway administration" has the meaning assigned to it in clause (32) of section 2 of the Railways Act, 1989;'

24 of 1989.

Substitution
of new
section for
section 3.

Responsibility
for payment
of wages.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. (1) Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,—

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948;

63 of 1948.

(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;

(c) upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;

(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and

(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act,

the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment."

Amendment
of section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (1), for the words, brackets and figures "sub-section (2) of section 47 of the Indian Railways Act, 1890", the words and figures "the Railways Act, 1989" shall be substituted;

9 of 1890.
24 of 1989.

(b) in sub-section (2), in clause (i), for the words, figures and letter "in section 58A of the Indian Income-tax Act, 1922", the words, brackets and figures "in clause (38) of section 2 of the Income-tax Act, 1961" shall be substituted;

11 of 1922.
43 of 1961.

9 of 1890.
24 of 1989.

(c) in sub-section (4), for the words and figures "the Indian Railways Act, 1890", the words and figures "the Railways Act, 1989" shall be substituted.

7. In section 8 of the principal Act, in sub-section (6), for the words "sixty days", the words "ninety days" shall be substituted.

Amendment
of section 8.

8. In section 15 of the principal Act,—

Amendment
of section 15.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The appropriate Government may, by notification in the Official Gazette, appoint—

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,—

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years' experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate,

14 of 1947.

as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act."

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any *bona fide* reason to be recorded by the

authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person; or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(c) the failure of the employed person to apply for or accept payment.”;

(iii) in sub-section (4), for the words “not exceeding fifty rupees” wherever they occur, the words “not exceeding three hundred seventy-five rupees” shall be substituted.

Amendment
of section 20.

9. In section 20 of the principal Act,—

(a) in sub-section (1), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(b) in sub-section (2), for the words “with fine which may extend to five hundred rupees”, the words “with fine which may extend to three thousand seven hundred fifty rupees” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Whoever being required to nominate or designate a person under section 3 fails to do so, such person shall be punishable with fine which may extend to three thousand rupees.”;

(d) in sub-section (3), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(e) in sub-section (4), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(f) in sub-section (5), for the words “with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees”, the words “with fine which shall not be less than three thousand seven hundred fifty rupees but which may extend to twenty-two thousand five hundred rupees” shall be substituted;

(g) in sub-section (6), for the words “one hundred rupees”, the words “seven hundred fifty rupees” shall be substituted.

Substitution
of new
section for
section 24.

Delegation of
powers.

10. For section 24 of the principal Act, the following section shall be substituted, namely:—

“24. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be also exercisable—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.”

11. In section 26 of the principal Act,—

Amendment
of section 26.

(a) in sub-section (4), for the words “which may extend to two hundred rupees”, the words “which shall not be less than seven hundred fifty rupees but which may extend to one thousand five hundred rupees” shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.”

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th December, 2005.

No. RPB/21-2005/Act-21-05/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 7th June, 2005/Jayastha 17, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 6th June, 2005, is hereby published for general information :-

**THE WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY
SYSTEMS (PROHIBITION OF UNLAWFUL ACTIVITIES) ACT, 2005,**
AN ACT

(Act No. 21 of 2005)

(6th June, 2005)

to prohibit unlawful activities, in relation to weapons of mass destruction and their delivery systems and for matters connected therewith or incidental thereto.

WHEREAS India is determined to safeguard its national security as a Nuclear Weapon State;

AND WHEREAS India is committed not to transfer nuclear weapons or other nuclear explosive devices, or to transfer control over such weapons or explosive devices, and not in any way to assist, encourage, or induce any other country to manufacture nuclear weapons or other nuclear explosive devices;

AND WHEREAS India is committed to prevent a non-State actor and a terrorist from acquiring weapons of mass destruction and their delivery systems;

AND WHEREAS India is committed to the objective of global nuclear disarmament;

AND WHEREAS India is committed to its obligations as a State Party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

AND WHEREAS India is exercising controls over the export of chemicals, organisms, materials, equipment and technologies in relation to weapons of mass destruction and their delivery systems under other relevant Acts;

AND WHEREAS it is considered necessary to provide for integrated legal measures to exercise controls over the export of materials, equipment and technologies and to prohibit unlawful activities in relation to weapons of mass destruction and their means of delivery.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called 'the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Act in addition
to other laws.

2. Save as otherwise expressly provided in this Act, the provisions of this Act shall be in addition to any other relevant Act for the time being in force in relation to any matter covered under this Act.

Extent and
application.

3. (1) It extends to the whole of India including its Exclusive Economic Zone.

(2) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(3) Any person who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(4) The provisions of this Act shall also apply to —

(a) citizens of India outside India;

(b) companies or bodies corporate, registered or incorporated in India or having their associates, branches or subsidiaries, outside India;

(c) any ship, aircraft or other means of transport registered in India or outside India, wherever it may be;

(d) foreigners while in India;

(e) persons in the service of the Government of India, within and beyond India.

(5) Notwithstanding the applicability of the provisions of any other Central Act relating to any activity provided herein, the provisions of this Act shall apply to export, transfer, re-transfer, transit and trans-shipment of material, equipment or technology of any description as are identified, designated, categorised or considered necessary by the Central Government, as pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, Covenant, Convention or arrangement relating to weapons of mass destruction or their means of delivery, to which India is a Party.

Definitions.

4. In this Act, unless the context otherwise requires,—

(a) "biological weapons" are—

(i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and

(ii) weapons, equipment or delivery systems specially designed to use such agents or toxins for hostile purposes or in armed conflict;

(b) "brought in transit" means to bring goods from any country into India by land, air, or amphibious means of transportation, where the goods are to be taken out from India on the same conveyance on which they are brought into India without any landing in India, but does not include a conveyance in innocent passage through Indian territory, Indian territorial waters or Indian airspace of a foreign conveyance carrying goods.

Explanation I.—A conveyance is a foreign conveyance if it is not registered in India.

Explanation II.—A conveyance is in “innocent passage” if it is not engaged in relevant activity and passes through or above Indian territorial waters or airspace without stopping or anchoring in India;

(c) “chemical weapons” means,—

(i) the toxic chemicals and their precursors, except where intended for—

(a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(c) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(d) law enforcement including domestic riot control purposes;

as long as the types and quantities are consistent with such purposes;

(ii) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in sub-clause (i), which would be released as a result of the employment of such munitions and devices; and

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in sub-clause (ii),

together or separately;

22 of 1992.

(d) “export” shall have the meaning assigned to this expression in the Foreign Trade (Development and Regulation) Act, 1992;

33 of 1962.

(e) “fissile material” and “radioactive material” shall have the meanings assigned to these expressions in the Atomic Energy Act, 1962;

(f) “item” means materials, equipment, and technology, of any description, notified under this Act or any other Act related to relevant activity;

(g) “non-State actor” is a person or entity not acting under the lawful authority of any country;

(h) “nuclear weapon or other nuclear explosive device” means any nuclear weapon or other nuclear explosive device as may be determined by the Central Government, whose determination in the matter shall be final;

(i) “public domain” means domain that has no restrictions upon dissemination of information within or from it; the existence of any legal rights to intellectual property in that information does not remove such information from being in public domain;

(j) “relevant activity” means,—

(i) the development, production, handling, operation, maintenance, storage or dissemination of a nuclear, chemical or biological weapon; or

(ii) the development, production, maintenance, storage or dissemination of missiles specially designed for delivering any such weapon;

(k) "re-transfer" means transfer of any item notified under this Act from any country or entity to which it has been exported from India, to yet another country or entity;

(l) "technology" means any information (including information embodied in software) other than information in the public domain, that is capable of being used in—

(i) the development, production or use of any goods or software;

(ii) the development of, or the carrying out of, an industrial or commercial activity or the provision of a service of any kind.

Explanation.—When technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used, in the development, production or use of such technology or goods;

(m) "terrorist" shall have the meaning assigned to this expression in the Unlawful Activities (Prevention) Act, 1967;

37 of 1967.

(n) "trans-shipment" means to remove goods from the conveyance on which they were brought into India and to place the goods on the same or another conveyance for the purpose of taking them out of India, where these acts are carried out on a "through bill of lading", "through airway bill" or "through manifest".

Explanation.—"through bill of lading", "through airway bill" and "through manifest" means respectively a bill of lading, airway bill and manifest, for the consignment of goods from a place outside India to a destination which is also outside India without a consignee in India;

(o) "unlawful" means without the authority of the Central Government and the expression "unlawfully" shall be construed accordingly;

(p) "weapons of mass destruction" means any biological, chemical or nuclear weapons.

Power to identify, designate, categorise or regulate certain activities.

5. (1) The Central Government may identify, designate, categorise or regulate, the export, transfer, re-transfer, trans-shipment, or transit of any item related to relevant activity in such manner as may be prescribed.

(2) The Central Government may, by order published in the Official Gazette, designate or notify any item related to relevant activity for the purposes of this Act.

Power to appoint Advisory Committees.

6. For the purposes of this Act, the Central Government may appoint such Advisory Committees as it deems fit, and may appoint to them persons to exercise such powers and perform such duties as the Central Government may, by rules, prescribe.

Delegation of powers.

7. (1) Subject to the provisions of this Act and any other law for the time being in force, related to relevant activity, the Central Government shall have the power to direct or assign to any authority, in such manner as it may deem appropriate, such powers as may be necessary to implement the provisions of this Act.

(2) The Central Government may appoint a Licensing Authority and an Appellate Authority and make provisions relating to such authority and for licensing in such manner and in such form, as the Central Government may, by rules, prescribe.

(3) Without prejudice to the generality of the provisions contained in this Act, the authorities and mechanisms provided under other relevant Acts shall continue to deal with matters covered under those Acts:

Provided that in case of any doubt as to whether a matter falls within the scope of such relevant Acts or under this Act, the decision of the Central Government thereon shall be final.

8. (1) No person shall unlawfully manufacture, acquire, possess, develop or transport a nuclear weapon or other nuclear explosive device and their means of delivery.

Prohibition relating to weapons of mass destruction.

(2) No person shall unlawfully transfer, directly or indirectly, to any one a nuclear weapon or other nuclear explosive device, or transfer control over such a weapon, knowing it to be a nuclear weapon or other nuclear explosive device.

(3) No person shall unlawfully manufacture, acquire, possess, develop or transport a biological or chemical weapon or their means of delivery.

(4) No person shall unlawfully transfer, directly or indirectly, to any one biological or chemical weapons.

(5) No person shall unlawfully transfer, directly or indirectly, to any one missiles specially designed for the delivery of weapons of mass destruction.

9. No person shall, directly or indirectly, transfer to a non-State actor or terrorist, any material, equipment and technology notified under this Act or any other Act related to relevant activity:

Prohibition relating to non-State actor or terrorist.

Provided that such transfer made to a non-State actor shall not include a transfer made as such to any person acting under lawful authority in India.

10. No person shall transfer, acquire, possess, or transport fissile or radioactive material, which is intended to be used to cause, or in a threat to cause, death or serious injury or damage to property for the purpose of intimidating people or a section of the people in India or in any foreign country, or compelling the Government of India or the Government of a foreign country or an international organisation or any other person to do so or abstain from doing any act.

Prohibition as regards intimidating acts.

11. No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery systems.

Prohibition on export.

12. No person who is a resident in India shall, for a consideration under the terms of an actual or implied contract, knowingly facilitate the execution of any transaction which is prohibited or regulated under this Act:

Prohibition on brokering.

Provided that a mere carriage, without knowledge, of persons, goods or technology, or provision of services, including by a public or private carrier of goods, courier, telecommunication, postal service provider or financial service provider, shall not be an offence for the purposes of this section.

13. (1) No item notified under this Act shall be exported, transferred, re-transferred, brought in transit or transhipped except in accordance with the provisions of this Act or any other relevant Act.

Regulation of export, transfer, re-transfer, transit and trans-shipment.

(2) Any transfer of technology of an item whose export is prohibited under this Act or any other relevant Act relating to relevant activity shall be prohibited.

(3) When any technology is notified under this Act or any other relevant Act, as being subject to transfer controls, the transfer of such technology shall be restricted to the extent notified thereunder.

Explanation.—The transfer of technology may take place through either or both of the following modes of transfer, namely:—

(a) by a person or from a place within India to a person or place outside India;

(b) by a person or from a place outside India to a person, or a place, which is also outside India (but only where the transfer is by, or within the control of, person, who is a citizen of India, or any person who is a resident in India).

(4) The Central Government may notify any item as being subject to the provisions of this Act, whether or not it is covered under any other relevant Act; and when such item is exhibited, sold, supplied or transferred to any foreign entity or a foreigner who is resident, operating, visiting, studying, or conducting research or business within the territorial limits of India, or in its airspace or Exclusive Economic Zone, it shall constitute an offence.

Offences and penalties.

14. Any person who contravenes, or attempts to contravene or abets, the provisions of section 8 or section 10 of this Act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for aiding non-State actor or terrorist.

15. (1) Any person who, with intent to aid any non-State actor or terrorist, contravenes the provisions of section 9 of this Act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Any person who, with intent to aid any non-State actor or terrorist, attempts to contravene or abets, or does any act preparatory to contravention of sub-section (1), shall be deemed to have contravened that provision and the provision of sub-section (1) shall apply subject to the modification that the reference to "imprisonment for life" therein shall be construed as a reference to "imprisonment for ten years".

(3) While determining the punishment under this section, the court shall take into consideration whether the accused had the knowledge about the transferee being a non-State actor or not.

Punishment for unauthorised export.

16. (1) Any person who knowingly contravenes, abets or attempts to contravene, the provisions of sub-section (4) of section 13 of this Act, shall be punishable with fine which shall not be less than three lakh rupees and which may extend to twenty lakh rupees.

(2) If any person is again convicted of the same offence under sub-section (1), then he shall be punishable for the second and every subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine.

Punishment for violation of other provisions of the Act.

17. (1) Where any person contravenes, or abets or attempts to contravene, any provision of this Act other than the provisions under sections 8, 9, 10 and sub-section (4) of section 13 of this Act, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine.

(2) If any person is again convicted of the same offence under sub-section (1), then he shall be punishable for the second and every subsequent offence with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine.

Penalty for using false or making forged documents, etc.

18. Where any person signs or uses, or causes to be signed or used, any declaration, statement or document submitted to the competent authority knowing or having reason to believe that such declaration, statement or document is forged or tampered with or is false in any material particular, and relates to items notified under this Act or any other relevant Act, including those related to relevant activity, he shall be punishable with fine which shall not be less than five lakh rupees or five times the value of the materials, equipment, technology or services, whichever is more.

Punishment for offences with respect to which no provision has been made.

19. Whoever contravenes any other provision of this Act or any rule or order made thereunder for which no specific punishment is provided, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Offences by companies.

20. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm and other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

21. No Court shall take cognizance of any offence under this Act without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf.

Cognizance of offences.

22. No action or proceedings taken under section 5 and sub-sections (1) and (2) of section 7 of this Act by the Central Government or any officer authorised by it in this behalf shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred under those provisions.

Bar of jurisdiction of civil courts.

23. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any other instrument having effect by virtue of any enactment other than this Act.

Effect of other laws.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other relevant Act, then the offender found guilty of such offence shall be liable to be punished under that Act which imposes a greater punishment.

24. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or authority of the Central Government or any other authority on whom powers have been conferred pursuant to this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken in good faith.

25. Nothing in this Act shall affect the activities of the Central Government in the discharge of its functions relating to the security or the defence of India.

Special provisions as to Central Government.

26. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) manner of regulating any item related to relevant activity under sub-section (1) of section 5;

(b) appointment of Advisory Committees, their powers and duties under section 6;

(c) appointment of Licensing and Appellate Authority and the manner of licensing under sub-section (2) of section 7; and

(d) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which

may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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FRIDAY, DECEMBER 16, 2005/AGRAHAYANA 25, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th December, 2005.

No. RPB/3-2005/Ord.-4-05/E :— The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31st October, 2005 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 31st October, 2005/Karitka 9, 1927 (Saka)

THE TAXATION LAWS (AMENDMENT) ORDINANCE, 2005. No. 4 OF 2005

Promulgated by the President in the Fifty-sixth Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961 and the Finance Act, 2005.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Taxation Laws (Amendment) Ordinance, 2005. Short title and commencement.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment
of section
10.

2. In section 10 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), with effect from the 1st day of April, 2006,— 43 of 1961.

(a) in clause (6BB), for the words, figures and letters "or entered into after the 30th day of September, 2005 and approved by the Central Government in this behalf", the words, figures and letters "or entered into after the 31st day of March, 2006 and approved by the Central Government in this behalf" shall be substituted;

(b) in clause (15A), in the proviso, for the words, figures and letters "the 1st day of October, 2005", the words, figures and letters "the 1st day of April, 2006" shall be substituted;

(c) after clause (38), the following clauses shall be inserted, namely:—

'(39) any specified income arising, from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(a) is approved by the international body regulating the international sport relating to such event;

(b) has participation by more than two countries;

(c) is notified by the Central Government in the Official Gazette for the purpose of this clause.

Explanation.— For the purpose of this clause, "the specified income" means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation, transmission or distribution of power if such receipt is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;

(41) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation, transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006 to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA.

3. In section 80-IA of the Income-tax Act, in sub-section (4), after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 2006, namely:—

Amendment of section 80-IA.

“(v) an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if—

(a) such Indian company is formed before the 30th day of November, 2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before the 31st day of December, 2005 by the Central Government for the purposes of this clause;

(b) such undertaking begins to generate or transmit or distribute power before the 31st day of March, 2007.”

4. In section 115W of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2006,—

Amendment of section 115W.

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) an association of persons or a body of individuals, whether incorporated or not;”;

(b) after sub-clause (v), the following proviso shall be inserted, namely:—

“Provided that any person eligible for exemption under clause (23C) of section 10 or registered under section 12AA or a political party registered under section 29A of the Representation of the People Act, 1951 shall not be deemed to be an employer for the purposes of this Chapter;”.

43 of 1951.

CHAPTER III

AMENDMENTS TO THE FINANCE ACT, 2005

18 of 2005.

5. In Chapter VII of the Finance Act, 2005 (hereafter in this Chapter referred to as the Finance Act), in section 94, with effect from the 1st day of June, 2005,—

Amendment of section 94.

(a) after clause (3), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

10 of 1949.

“(3A) “banking company” means a company to which the Banking Regulation Act, 1949 applies and includes any bank referred to in section 51 of that Act;”;

(b) after clause (4), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

10 of 1949.

“(4A) “co-operative bank” shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949;”.

Insertion of
new section
112A.

6. In Chapter VII of the Finance Act, after section 112, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2005, namely:—

This Chapter
not to apply
in certain
cases.

“112A. The provisions of this Chapter shall not apply to, or in relation to, the taxable banking transactions entered into on or after the 1st day of June, 2005,—

(a) between a scheduled bank and a banking company or a co-operative bank; or

(b) between a scheduled bank and another scheduled bank.”

Sd/-

A. P. J. ABDUL KALAM,
President.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 16th December, 2005.

No. RPB/22-2005/Act-29-05/E :— The following Act of Parliament is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 23rd June, 2005/Jaystha 26, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005, is hereby published for general information :—

THE PRIVATE SECURITY AGENCIES (REGULATION) ACT, 2005, AN ACT

(Act No. 29 of 2005)

(23rd June, 2005)

to provide for the regulation of private security agencies and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Private Security Agencies (Regulation) Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "armoured car service" means the service provided by deployment of armed guards along with armoured car and such other related services which may be notified by the Central Government or as the case may be, the State Government from time to time;

(b) "Controlling Authority" means the Controlling Authority appointed under sub-section (1) of section 3;

(c) "licence" means a licence granted under sub-section (5) of section 7;

(d) "notification" means a notification published in the Official Gazette;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "private security" means security provided by a person, other than a public servant, to protect or guard any person or property or both and includes provision of armoured car service;

(g) "private security agency" means a person or body of persons other than a government agency, department or organisation engaged in the business of providing private security services including training to private security guards or their supervisor or providing private security guards to any industrial or business undertaking or a company or any other person or property;

(h) "private security guard" means a person providing private security with or without arms to another person or property or both and includes a supervisor;

(i) "State Government", in relation to a Union territory, includes the Administrator of that Union territory appointed by the President under article 239 of the Constitution.

Appointment
of Controlling
Authority.

3. (1) The State Government shall, by notification, designate an officer not below the rank of a Joint Secretary in the Home Department of the State or an equivalent officer to be the Controlling Authority for the purposes of this Act.

(2) The State Government may, for efficient discharge of functions by the Controlling Authority, provide it with such other officers and staff as that Government considers necessary.

Persons or
Private
Security
Agency not
to engage or
provide
private
security guard
without
licence.

4. No person shall carry on or commence the business of private security agency, unless he holds a licence issued under this Act:

Provided that the person carrying on the business of private security agency, immediately before the commencement of this Act, may continue to do so for a period of one year from the date of such commencement and if he has made an application for such licence within the said period of one year, till the disposal of such application:

Provided further that no private security agency shall provide private security abroad without obtaining permission of the Controlling Authority, which shall consult the Central Government before according such permission.

Eligibility for
licence.

5. An application for issue of a licence under this Act shall only be considered from a person after due verification of his antecedents.

Persons not
eligible for
licence.

6. (1) A person shall not be considered for issue of a licence under this Act, if he has been—

(a) convicted of an offence in connection with promotion, formation or management of a company (any fraud or misfeasance committed by him in relation to the company), including an undischarged insolvent; or

(b) convicted by a competent court for an offence, the prescribed punishment for which is imprisonment of not less than two years; or

(c) keeping links with any organisation or association which is banned under any law on account of their activities which pose threat to national security or public order or there is information about such a person indulging in activities which are prejudicial to national security or public order; or

(d) dismissed or removed from Government service on grounds of misconduct or moral turpitude.

(2) A company, firm or an association of persons shall not be considered for issue of a licence under this Act, if, it is not registered in India, or having a proprietor or a majority shareholder, partner or director, who is not a citizen of India.

7. (1) An application for grant of licence to a private security agency shall be made to the Controlling Authority in such form as may be prescribed.

Application
for grant
of licence.

(2) The applicant shall submit an affidavit incorporating the details in relation to the provisions contained in section 6, ensure the availability of the training for its private security guards and supervisors required under sub-section (2) of section 9, fulfilment of conditions under section 11 and of cases registered with police or pending in a court of law involving the applicant.

(3) Every application under sub-section (1) shall be accompanied by a fee of—

(a) rupees five thousand if the private security agency is operating in one district of a State;

(b) rupees ten thousand if the agency is operating in more than one but up to five districts of a State; and

(c) rupees twenty-five thousand if it is operating in the whole State.

(4) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as it considers necessary and obtaining no objection certificate from the concerned police authority, by order in writing, either grant a licence or refuse to grant the same within a period of sixty days from the date of receipt of application with complete particulars and the prescribed fee:

Provided that no order of refusal shall be made unless—

(a) the applicant has been given a reasonable opportunity of being heard; and

(b) the grounds on which licence is refused is mentioned in the order.

(5) A licence granted under this section—

(a) shall be valid for a period of five years unless the same is cancelled under sub-section (1) of section 13;

(b) may be renewed from time to time after the expiry of five years, for a further period of five years on payment of such fee as may be prescribed; and

(c) shall be subject to such conditions as may be prescribed.

8. (1) An application for renewal of licence shall be made to the Controlling Authority, not less than forty-five days before the date of expiry of the period of validity thereof, in such form as may be prescribed and shall be accompanied by the requisite fee and other documents required under sections 6, 7 and 11 of this Act.

Renewal of
licence.

(2) The Controlling Authority shall pass an order on application for renewal of licence within thirty days from the date of receipt of application complete in all respects.

(3) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as he considers necessary and by order in writing, renew the licence or refuse to renew the same:

Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

9. (1) Every private security agency shall, within six months of obtaining the licence, commence its activities.

Conditions
for
commencement
of operation
and
engagement
of
supervisors.

(2) Every private security agency shall ensure imparting of such training and skills to its private security guards and supervisors as may be prescribed:

Provided that the person carrying on the business of private security agency, before the commencement of this Act, shall ensure the required training to its security guards and supervisors within a period of one year from the date of such commencement.

(3) Every private security agency shall, within sixty days from the date of issue of the licence, employ such number of supervisors, as may be prescribed.

(4) A private security agency shall not employ or engage a person as a supervisor unless he fulfils the conditions specified in sub-section (1) of section 10.

(5) While engaging a supervisor of private security guards, every private security agency shall give preference to a person who has experience of serving in the Army, Navy, Air Force or any other Armed forces of the Union or State Police including armed constabularies and Home Guards for a period of not less than three years.

Eligibility to
be a private
security
guard.

10. (1) A private security agency shall not employ or engage any person as a private security guard unless he—

(a) is a citizen of India or a citizen of such other country as the Central Government may, by notification in the Official Gazette, specify;

(b) has completed eighteen years of age but has not attained the age of sixty-five years;

(c) satisfies the agency about his character and antecedents in such manner as may be prescribed;

(d) has completed the prescribed security training successfully;

(e) fulfils such physical standards as may be prescribed; and

(f) satisfies such other conditions as may be prescribed.

(2) No person who has been convicted by a competent court or who has been dismissed or removed on grounds of misconduct or moral turpitude while serving in any of the armed forces of the Union, State Police Organisations, Central or State Governments or in any private security agency shall be employed or engaged as a private security guard or a supervisor.

(3) Every private security agency may, while employing a person as a private security guard, give preference to a person who has served as a member in one or more of the following, namely:—

(i) Army;

(ii) Navy;

(iii) Air Force;

(iv) any other armed forces of the Union;

(v) Police, including armed constabularies of States; and

(vi) Home Guards.

Conditions of
licence.

11. (1) The State Government may frame rules to prescribe the conditions on which licence shall be granted under this Act and such conditions shall include requirements as to the training which the licensee is to undergo, details of the person or persons forming the agency, obligation as to the information to be provided from time to time to the Controlling Authority regarding any change in their address, change of management and also about any criminal charge made against them in the course of their performance of duties of the private security agency or as the case may be, a private security guard employed or engaged by them.

(2) The State Government may make provision in the rules to verify about imparting of required training by the private security agency under sub-section (2) of section 9 and to review continuation or otherwise of licence of such private security agency which may not have adhered to the condition of ensuring the required training.

12. Every private security agency shall exhibit its licence or copy thereof in a conspicuous place of its business.

Licence to be exhibited.

13. (1) The Controlling Authority may cancel any licence on any one or more of the following grounds, namely:—

Cancellation and suspension of licence.

(a) that the licence has been obtained on misrepresentation or suppression of material facts;

(b) that the licence holder has used false documents or photographs;

(c) that the licence holder has violated the provisions of this Act or the rules made thereunder or any of the conditions of the licence;

(d) that the licence holder has misused information obtained by him during the discharge of his duties as the private security agency to any industrial or business undertaking or a company or any other person;

(e) that the licence holder by using any letter-head, advertisement or any other printed matter or in any other manner represented that the private security agency is an instrumentality of the Government or such agency is or has been using a name different from that for which licence has been granted;

(f) that the licence holder is or has been impersonating or permitting or aiding or abetting any body to impersonate as a public servant;

(g) that the private security agency had failed to commence its activities or to engage a supervisor within the specified time period;

(h) that the licence holder is or has wilfully failed or refused to render the services agreed to any person;

(i) that the licence holder has done any act which is in violation of a court order or an order of a lawful authority or is or has been advising, encouraging or assisting any person to violate any such order;

(j) that the licence holder has violated the provisions of the Acts given in the Schedule which may be modified by the Central Government, by notification in the Official Gazette;

(k) that there have been repeated instances when the private security guard or guards provided by the private security agency—

(i) failed to provide private security or were guilty of gross negligence in not providing such security;

(ii) committed a breach of trust or misappropriated the property or a part thereof which they were supposed to protect;

(iii) were found habitually drunk or indisciplined;

(iv) were found to be involved in committing crimes; or

(v) had connived or abetted a crime against the person or property placed under their charge; or

(l) that the licence holder has done any act which poses a threat to national security, or did not provide assistance to the police or other authority in the discharge of its duties or acted in a manner prejudicial to national security or public order or law and order.

(2) Where the Controlling Authority, for reasons to be recorded in writing, is satisfied that pending the question of cancelling of licence on any of the grounds mentioned in sub-section (1), it is necessary to do so, that Controlling Authority may, by order in writing, suspend the operation of the licence for such period not exceeding thirty days, as may be

specified in the order and require the licence holder to show cause, within fifteen days from the date of issue of such order, as to why the suspension of the licence should not be extended till the determination of the question of cancellation.

(3) Every order of suspending or cancelling of a licence shall be in writing and shall specify the reasons for such suspension or cancellation and a copy thereof shall be communicated to the person affected.

(4) No order of cancellation of licence under sub-section (1) shall be made unless the person concerned has been given a reasonable opportunity of being heard.

Appeals.

14. (1) Any person aggrieved by an order of the Controlling Authority refusing the licence under sub-section (4) of section 7 or renewal under sub-section (3) of section 8 or order of suspension of licence under sub-section (2) of section 13 or cancellation of licence under sub-section (1) of that section, may prefer an appeal against that order to the Home Secretary of the State Government within a period of sixty days of the date of such order:

Provided that an appeal may be admitted after the expiry of the said period of sixty days if the appellant satisfies the State Government that he has sufficient cause for not preferring the appeal within that period.

(2) Every appeal under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against.

(3) Before disposing of an appeal, the State Government shall give the appellant a reasonable opportunity of being heard.

Register to be maintained by a private security agency.

15. (1) Every private security agency shall maintain a register containing—

(a) the names and addresses of the persons managing the private security agency;

(b) the names, addresses, photographs and salaries of the private security guards and supervisors under its control;

(c) the names and addresses of the persons whom it had provided private security guards or services; and

(d) such other particulars as may be prescribed.

(2) The Controlling Authority may call for such information as it considers necessary from any private security agency, supervisor or private security guard to ensure due compliance of the Act.

Inspection of licence, etc.

16. The Controlling Authority or any other officer authorised by it in this behalf may at any reasonable time, enter the premises of the private security agency and inspect and examine the place of business, the records, accounts and other documents connected with the licence and may take copy of any document.

Issue of photo identity card.

17. (1) Every private security guard shall be issued a photo identity card, by the private security agency employing or engaging the guard.

(2) The photo identity card under sub-section (1) shall be issued in such form as may be prescribed.

(3) Every private security guard or supervisor shall carry on his person the photo identity card issued under sub-section (1) and shall produce it on demand for inspection by the Controlling Authority or any other officer authorised by it in this behalf.

Disclosure of information to unauthorised person.

18. (1) Any person who may be or has been employed or engaged as a private security guard by the private security agency shall not divulge to anyone other than the employer, or in such manner and to such person as the employer directs, any information acquired by him during such employment with respect to the work which he has been assigned by such employer, except such disclosure as may be required under this Act or in connection with

any inquiry or investigation by the police or as may be required by an authority or process of law.

(2) All private security guards of a private security agency shall render necessary assistance to the police or to such authority in the process of any investigation pertaining to the activities of that agency.

(3) If violation of any law is noticed by any private security guard during the course of discharge of his duties, he shall bring it to the notice of his superior, who in turn shall inform the police either through his employer or agency or on his own.

19. The State Government may, by notification, direct that any power or function (except the powers to make rules under section 25)— Delegation.

(a) which may be exercised or performed by it, or

(b) which may be exercised or performed by the Controlling Authority,

under this Act, may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be also exercised or performed by such officer or authority subordinate to the Government or officer subordinate to the Controlling Authority, as may be specified in such notification.

20. (1) Any person who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to twenty-five thousand rupees, or with both.

Punishment for contravention of certain provisions.

(2) Any person or private security agency who contravenes, the provisions of sections 9, 10 and 12 of the Act, shall be punishable with a fine which may extend to twenty-five thousand rupees, in addition to suspension or cancellation of the licence.

21. If any private security guard or supervisor wears the uniform of the Army, Air force, Navy or any other armed forces of the Union or Police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he and the proprietor of the private security agency shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both.

Penalty for unauthorised use of certain uniforms.

22. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Indemnity.

23. No suit, prosecution or other legal proceeding shall lie against the Controlling authority or any other officer authorised by it in respect of anything in good faith done or intended to be done under this Act.

Framing of model rules for adoption by States.

24. The Central Government may frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this Act, and where any such model rules have been framed the State Government shall, while making any rules in respect of that matter under section 25, so far as is practicable, conform to such model rules.

Power of State Government to make rules.

25. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure for verification of character and antecedents under clause (c) of sub-section (1) of section 10; the type of training under clause (d) of sub-section (1) of section 10; the physical standard under clause (e) of sub-section (1) of section 10; and other conditions under clause (f) of sub-section (1) of section 10;

(b) the number of supervisors to be employed under sub-section (3) of section 9;

(c) the form of an application for grant of licence under sub-section (1) of section 7;

(d) the form in which the licence to be granted under sub-section (4) of section 7 and conditions subject to which such licence to be granted under section 11;

(e) the form of an application for renewal of licence under sub-section (1) of section 8;

(f) the form under sub-section (2) of section 14 for preferring an appeal;

(g) particulars to be maintained in a register under sub-section (1) of section 15;

(h) the form in which photo identity card under sub-section (2) of section 17 be issued;

(i) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

(4) In respect of Union territories, every rule made to carry out the provisions of the Act shall be laid before each House of Parliament and where there exists a Legislative Assembly, before that Assembly.

THE SCHEDULE

[See section 13(1)(j)]

- (1) The Payment of Wages Act, 1936 (4 of 1936).
- (2) The Industrial Disputes Act, 1947 (14 of 1947).
- (3) The Minimum Wages Act, 1948 (11 of 1948).
- (4) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).
- (5) The Payment of Bonus Act, 1965 (21 of 1965).
- (6) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
- (7) The Payment of Gratuity Act, 1972 (39 of 1972).
- (8) The Equal Remuneration Act, 1976 (25 of 1976).
- (9) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979).

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.

VI- Ex. 33-3



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th December, 2005.

No. RPB/26-2005/Act-30-05/E :— The following Act of Parliament is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 23rd June, 2005/Jaystha 26, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005, is hereby published for general information :—

THE CREDIT INFORMATION COMPANIES (REGULATION) ACT, 2005,

AN
ACT

(Act No. 30 of 2005)

(23rd June, 2005)

to provide for regulation of credit information companies and to facilitate efficient distribution of credit and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Credit Information Companies (Regulation) Act, 2005.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "board" means the Board of directors of a credit information company;

(b) "borrower" means any person who has been granted loan or any other credit facility by a credit institution and includes a client of a credit institution;

(c) "client" includes—

(i) a guarantor or a person who proposes to give guarantee or security for a borrower of a credit institution; or

(ii) a person—

(A) who has obtained or seeks to obtain financial assistance from a credit institution, by way of loans, advances, hire purchase, leasing facility, letter of credit, guarantee facility, venture capital assistance or by way of credit cards or in any other form or manner;

(B) who has raised or seeks to raise money by issue of security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, or by issue of commercial paper, depository receipt or any other instrument; 42 of 1956.

(C) whose financial standing has been assessed or is proposed to be assessed by a credit institution or any other person or institution as may, by notification, be directed by the Reserve Bank;

(d) "credit information" means any information relating to—

(i) the amounts and the nature of loans or advances, amounts outstanding under credit cards and other credit facilities granted or to be granted, by a credit institution to any borrower;

(ii) the nature of security taken or proposed to be taken by a credit institution from any borrower for credit facilities granted or proposed to be granted to him;

(iii) the guarantee furnished or any other non-fund based facility granted or proposed to be granted by a credit institution for any of its borrowers;

(iv) the credit worthiness of any borrower of a credit institution;

(v) any other matter which the Reserve Bank may, consider necessary for inclusion in the credit information to be collected and maintained by credit information companies, and, specify, by notification, in this behalf;

(e) "credit information company" means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration under sub-section (2) of section 5; 1 of 1956.

(f) "credit institution" means a banking company and includes—

(i) a corresponding new bank, the State Bank of India, a subsidiary bank, a co-operative bank, the National Bank and regional rural bank;

(ii) a non-banking financial company as defined under clause (f) of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934.

(iii) a public financial institution referred to in section 4A of the Companies Act, 1956; 1 of 1956.

(iv) the financial corporation established by a State under section 3 of the State Financial Corporation Act, 1951; 63 of 1951.

(v) the housing finance institution referred to in clause (d) of section 2 of the National Housing Bank Act, 1987; 53 of 1987.

(vi) the companies engaged in the business of credit cards and other similar cards and companies dealing with distribution of credit in any other manner;

(vii) any other institution which the Reserve Bank may specify, from time to time, for the purposes of this clause;

(g) "credit scoring" means a system which enables a credit institution to assess the credit worthiness and capacity of a borrower to repay his loan and advances and discharge his other obligations in respect of credit facility availed or to be availed by him;

(h) "notification" means a notification published in the Official Gazette of India;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "regulations" means regulations made by the Reserve Bank under this Act;

(k) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

(l) "specified user" means any credit institution, credit information company being a member under sub-section (3) of section 15, and includes such other person or institution as may be specified by regulations made, from time to time, by the Reserve Bank for the purpose of obtaining credit information from a credit information company;

(m) words and expressions used herein and not defined in this Act but defined in the Reserve Bank of India Act, 1934 or the Banking Regulation Act, 1949 or the Companies Act, 1956 shall have the meanings respectively assigned to them in those Acts.

2 of 1934.

2 of 1934.

10 of 1949.

1 of 1956.

CHAPTER II

REGISTRATION OF CREDIT INFORMATION COMPANIES

3. Save as otherwise provided in this Act, no company shall commence or carry on the business of credit information without obtaining a certificate of registration from the Reserve Bank under this Act.

Prohibition to commence or carry on business of credit information.

4. (1) Every company which intends to commence the business of credit information shall make an application for registration to the Reserve Bank in such form and manner as may be specified by regulations.

Application for registration.

(2) Every credit information company, in existence on the commencement of this Act, before the expiry of six months from such commencement, shall apply in writing to the Reserve Bank for obtaining a certificate of registration under this Act:

Provided that in the case of a credit information company in existence on the commencement of this Act, nothing in section 3 shall be deemed to prohibit such credit information company from carrying on the business of a credit information company, until it is granted a certificate of registration or is by notice in writing informed by the Reserve Bank that a certificate of registration cannot be granted to it.

5. (1) The Reserve Bank may, for the purpose of considering the application of a company for grant of a certificate of registration to commence or carry on the business of credit information, require to be satisfied, by an inspection of records or books of such company or otherwise that the following conditions are fulfilled, namely:—

Grant of certificate of registration.

(a) that the applicant company has minimum capital structure referred to in section 8;

(b) that the general character of the management or the proposed management of the applicant company shall not be prejudicial to the interest of its specified users, clients or borrowers, or other credit information companies;

(c) that any other condition, the fulfilment of which in the opinion of the Reserve Bank, shall be necessary to ensure that the commencement or carrying on of the business of credit information by the applicant company shall not be detrimental or prejudicial to the public interest or banking policy or credit system or its specified users or clients or borrowers or other credit information companies or others who would provide credit information to the credit information companies.

(2) The Reserve Bank may, after being satisfied that the conditions as referred to in sub-section (1) are fulfilled, grant a certificate of registration to the applicant company to commence or carry on the business of credit information, subject to such conditions which it may consider fit to impose and if the company fails to fulfil any of such conditions or any of the provisions of this Act, the application of the company shall be rejected:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(3) The Reserve Bank may, having regard to the available business of credit information, the potential and scope for expansion of existing credit information companies and other relevant factors, determine the total number of the credit information companies which may be granted the certificates of registration for carrying on the business of credit information:

Provided that the total number of such credit information companies so determined may, on being satisfied by the Reserve Bank, that there is change in available business of credit information, potential and scope for expansion of existing credit information companies and other relevant factors relating thereto, be reviewed by the Reserve Bank.

Power of
Reserve Bank
to cancel
certificate of
registration.

6. (1) The Reserve Bank may cancel a certificate of registration granted to a credit information company under sub-section (2) of section 5 if such company,—

(i) ceases to carry on the business of credit information; or

(ii) has failed to comply with any of the conditions subject to which the certificate of registration has been granted to it; or

(iii) at any time fails to fulfil any of the conditions referred to in sub-clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5; or

(iv) fails—

(a) to comply with the provisions of any law for the time being in force or any direction issued by the Reserve Bank under the provisions of this Act; or

(b) to submit or offer for inspection its books of account and other relevant documents when so demanded by the officers, persons or agency referred to in sub-section (1) of section 12.

(2) Before cancelling the certificate of registration granted to a credit information company under this section on the ground that the company has failed to comply with the conditions specified in clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5 or the provisions of any other law for the time being in force or directions issued under this Act, the Reserve Bank, shall grant time to such company on such terms as the Reserve Bank may deem appropriate for taking necessary steps to comply with such directions or provisions or fulfilment of such conditions, within such time:

Provided that if the Reserve Bank is of the opinion that the delay in cancelling the certificate of registration of such company shall be prejudicial or detrimental to the public interest or banking policy or credit system or borrowers or other credit information companies, the Reserve Bank may cancel the certificate of registration without granting time as provided in sub-section (2).

(3) No order of cancellation of certificate of registration, granted to a credit information company, shall be made by the Reserve Bank unless such company has been given a reasonable opportunity of being heard.

7. (1) A credit information company aggrieved by the order of rejection of an application for grant of certificate of registration under section 5 or cancellation of certificate of registration under section 6, may prefer an appeal to the Central Government or any other authority or tribunal which may be designated by rules made by the Central Government, within a period of thirty days from the date on which such order of rejection or cancellation, as the case may be, is communicated to the credit information company.

Appeal against
order of
Reserve Bank.

(2) The decision of the Central Government or the authority or tribunal referred to in sub-section (1) where an appeal has been preferred to it under sub-section (1), or of the Reserve Bank where no such appeal has been preferred, shall be final:

Provided that before making any order of rejection of an appeal, the applicant company or the credit information company, as the case may be, shall be given a reasonable opportunity of being heard.

8. (1) The authorised capital of every credit information company shall be a minimum of thirty crores:

Requirement as
to minimum
capital.

Provided that the Reserve Bank may, by notification, increase the minimum amount of authorised capital to any amount not exceeding fifty crores.

(2) The issued capital of every credit information company shall not be less than twenty crores:

Provided that the Reserve Bank may, by notification, increase the issued capital to any amount not exceeding the minimum amount of authorised capital as referred to in sub-section (1).

(3) The minimum paid up capital of every credit information company at any time shall not be less than seventy five per cent. of the issued capital.

CHAPTER III

MANAGEMENT OF CREDIT INFORMATION COMPANIES

9. (1) Notwithstanding anything contained in any law for the time being in force, or in any contract to the contrary, every credit information company in existence on the commencement of this Act, or which comes into existence thereafter, shall have one of its directors, who may be appointed on whole-time or on a part-time basis as chairperson of its board, and where he is appointed on whole-time basis as chairperson of its board, he shall be entrusted with the management of the whole of the affairs of the credit information company:

Management of
credit
information
company.

Provided that the chairperson of the board of the credit information company shall exercise his powers subject to the superintendence, control and directions of the board.

(2) Where a chairperson is appointed on a part-time basis, the management of whole of the affairs of the credit information company shall be entrusted to a managing director or, a whole-time director by whatever name called, who shall exercise his powers subject to the superintendence, control and directions of the board.

(3) In addition to the chairperson or managing director or whole-time director, by whatever name called, the board of directors shall consist of not less than fifty per cent. directors who shall be persons having special knowledge in, or practical experience of, the matters relating to public administration, law, banking, finance, accountancy, management or information technology.

(4) In discharging its functions, the board shall act on business principles and shall have due regard to the interest of its specified users, credit institutions or the clients or borrowers of credit institutions.

(5) Where the Reserve Bank is satisfied that it is in the public interest or in the interest of banking policy or credit system of the country, or for preventing the affairs of any credit information company being managed in a manner detrimental to the interest of banking policy or credit institutions or borrowers or clients or for securing the proper management of any credit information company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order published in the Official Gazette, supersede the board of such company, for such period not exceeding six months, as may be specified in the order and which may be extended from time to time, so, however, that the total period shall not exceed twelve months:

Provided that before making any such order, the Reserve Bank shall give a reasonable opportunity to the board of such credit information company to make representation against the proposed supersession and shall consider the representation, if any, of the board.

(6) The Reserve Bank may, on supersession of the board of a credit information company under sub-section (5), appoint an Administrator for such period and on such salary and other terms and conditions as it may determine.

(7) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(8) Upon making of the order under sub-section (5), superseding the board of a credit information company—

(a) the chairperson, managing director and other directors of such credit information company shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 or this Act or any other law for the time being in force, be exercised or discharged, by or on behalf of the board of such credit information company, or by a resolution passed in general meeting of that company, shall, until the reconstitution of its board under sub-section (10), be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (6):

Provided that the powers exercised by the Administrator shall be valid notwithstanding that such powers are exercisable by a resolution passed in the general meeting of such credit information company.

(9) The salary and allowances payable to the Administrator and staff assisting the Administrator shall be borne by the credit information company.

(10) On and before the expiration of two months before expiry of the period of supersession mentioned in the order of the Reserve Bank issued under sub-section (5), the Administrator of the credit information company, shall call a general meeting of the credit information company to elect new directors and reconstitute its board and any person who had vacated his office under clause (a) of sub-section (8), shall not be deemed to be disqualified for re-appointment.

(11) Notwithstanding anything contained in any law for the time being in force or in any contract or the memorandum or articles of association, of the credit information company, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

10. Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest or in the interest of specified users or in the interest of credit information companies or credit institutions or clients or borrowers so to do, it may determine the policy in relation to functioning of credit information companies or credit institutions or specified users generally or in particular and when the policy has been so determined all credit information

companies, credit institutions and specified users, as the case may be, shall be bound to follow the policy as so determined.

11. (1) Where the Reserve Bank is satisfied that,—

Power of
Reserve Bank
to give
directions.

(a) in the public interest; or

(b) in the interest of credit institutions; or

(c) in the interest of specified users; or

(d) in the interest of banking policy; or

(e) to prevent the affairs of any credit information company being conducted in a manner detrimental to the interests of its specified users or in a manner prejudicial to the interests of credit institutions or borrowers or clients; or

(f) to secure the proper management of credit information companies generally,

it is necessary to issue directions to credit information companies or credit institutions or specified users generally or to any credit information company or credit institution or specified user in particular, it may, from time to time, issue such directions as it deems fit, and such credit information companies, credit institutions and specified users or credit information company, credit institution, and specified user, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and the Reserve Bank, in so modifying or cancelling any direction, may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

(3) The Reserve Bank may, at any time, if it is satisfied that in the public interest or in the interest of a credit information company or its members, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein,—

(a) require such credit information company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the credit information company;

(b) depute one or more of its officers to watch the proceedings at any meeting of the board of the credit information company or of any committee or of any other body constituted by it and require the credit information company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank;

(c) require the board of the credit information company or of any committee or any other body constituted by it to give in writing to any officer deputed by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the board, committee or other body constituted by it;

(d) appoint one or more of its officers to observe the manner in which the affairs of the credit information company or of its offices or branches are being conducted and make a report thereon;

(e) require the credit information company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary.

(4) The Reserve Bank may, at any time, direct any credit information company to furnish it within such time as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of the credit information company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

Inspection of
credit
information
company, credit
institution and
specified user.

12. (1) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Reserve Bank, at any time, may and on being directed so to do by the Central Government shall, cause an inspection to be made, by one or more of its officers or through such other persons or agency as the Reserve Bank may determine, of any credit information company or credit institution or specified user and their books and accounts; and the Reserve Bank shall supply to the credit information company or credit institution or specified user, as the case may be, a copy of its report on such inspection.

(2) It shall be the duty of every director or other officer or employee of the credit information company, credit institution and specified user to produce to any officer or person or agency, as the case may be, making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of such credit information company, credit institution and specified user, as the said officer or person or agency may require of him within such time as the said officer or person or agency may specify.

(3) Any officer of the Reserve Bank or person or an agency making an inspection under sub-section (1) may examine on oath any director or other officer or employee of the credit information company, credit institution and specified user, in relation to their business, and may administer an oath accordingly.

(4) The expenses of, or incidental to, the inspection under sub-section (1) by any person or an agency referred to in sub-section (1) shall be borne by the concerned credit information company or credit institution or specified user, as the case may be.

CHAPTER IV

AUDITORS

Powers and
duties of
auditors.

13. (1) It shall be the duty of an auditor of a credit information company to inquire whether or not the credit information company has furnished to the Reserve Bank such statements, information or particulars relating to its business as are required to be furnished under this Act and the auditor shall, except where he is satisfied on such inquiry that the credit information company has furnished such a statement, information or particulars, make a report to the Reserve Bank in this regard.

(2) The Reserve Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of credit system, issue directions in particular or in general with respect to audit of the credit information company and submission of the report to the Reserve Bank.

(3) Where the Reserve Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the credit information company or its members, or in the interest of credit system or credit institution or its borrower or client so to do, it may, at any time, by an order, direct that a special audit of the accounts of the credit information company in relation to any such transaction or class of transactions or for such period or periods, as may be mentioned in the order, shall be conducted and the Reserve Bank may by such order or by a separate order either appoint an auditor or auditors or direct the auditor of the credit information company himself to conduct such special audit and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the credit information company.

(4) The remuneration of the auditors as may be fixed by the Reserve Bank, having regard to the nature and volume of work involved in the audit and the expenses of, or incidental to, the audit, shall be borne by the credit information company so audited.

CHAPTER V

FUNCTIONS OF CREDIT INFORMATION COMPANIES

14. (1) A credit information company may engage in any one or more of the following forms of business, namely:—

Functions of a credit information company.

(a) to collect, process and collate information on trade, credit and financial standing of the borrowers of the credit institution which is a member of the credit information company;

(b) to provide credit information to its specified users or to the specified users of any other credit information company or to any other credit information company being its member;

(c) to provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its members;

(d) to undertake research project;

(e) to undertake any other form of business which the Reserve Bank may, specify by regulations as a form of business in which it is lawful for a credit information company to engage.

(2) No credit information company shall engage in any form of business other than those referred to in sub-section (1).

(3) Any credit information company for the purposes of carrying on the business of credit information may—

(a) register credit institutions and other credit information companies, at their option as its member, subject to such terms and conditions as may be pre-determined and disclosed by such credit information company;

(b) charge such reasonable amount of fees, as it may deem appropriate not exceeding the maximum fee, as may be specified under section 27, for furnishing credit information to a specified user;

(c) generally to do all such other acts and perform such other functions as are necessary to facilitate proper conduct of its affairs, business and functions in accordance with the provisions of this Act.

15. (1) Every credit institution in existence on the commencement of this Act, before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

Credit Institution to be member of a credit information company.

(2) Every credit institution which comes into existence after the commencement of this Act, before the expiry of three months from its coming into existence, or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(3) A credit information company may, at its option, become member of another credit information company.

(4) No credit information company shall refuse to register a credit institution or another credit information company as its member without providing reasonable opportunity of being heard to such credit institution or credit information company, whose application it proposes to reject and recording reasons for such rejection and a copy of such order of rejection shall be forwarded to the Reserve Bank.

(5) A credit institution or credit information company aggrieved by the order of rejection of its application for its registration as a member of a credit information company under sub-section (4) may prefer an appeal to the Reserve Bank, within a period of thirty days from the date on which such order of rejection was communicated to it:

Provided that the Reserve Bank may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

(6) On receipt of an appeal under sub-section (5), the Reserve Bank, after giving the appellant and other concerned parties, an opportunity of being heard, pass such order as it deems fit.

(7) The decision of the Reserve Bank where an appeal has been preferred to it under sub-section (5) shall be final and the order of the credit information company under sub-section (4) shall be final after the expiry of the said period of thirty days where no appeal has been preferred under that sub-section to the Reserve Bank.

(8) Every specified user shall be entitled to obtain credit information for its use from the credit information company of which such specified user is a member.

16. (1) Where a credit institution—

(a) abstains from becoming a member of at least one credit information company;

or

(b) at any time is not a member of any credit information company,

the Reserve Bank *suo motu* or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company.

(2) In case a credit institution fails to comply with the directions of the Reserve Bank under sub-section (1), to become member of at least one credit information company, the Reserve Bank may, without prejudice to the provisions of this Act, intimate such failure to any other authority for taking such action as it may deem fit.

17. (1) A credit information company or any person authorised in that behalf by the company may, by notice in writing, in such form, as may be specified by regulations made by the Reserve Bank or as near thereto, require its members being credit institution or credit information company, to furnish such credit information as it may deem necessary in accordance with the provisions of this Act.

(2) Every credit institution which is member of the credit information company and every credit information company which is a member of other credit information company shall, on receipt of notice under sub-section (1), provide credit information to the credit information company of which it is a member, within such period as may be specified in the notice.

(3) Every credit information company shall provide for such purpose, as may be specified by regulations, the credit information received under sub-section (2), to its specified user on receipt of request from him in accordance with the provisions of this Act and directions issued thereunder by the Reserve Bank from time to time in this behalf.

(4) No credit information received under this Act,—

(a) by the credit information company, shall be disclosed to any person other than its specified user; or

(b) by the specified user, shall be disclosed to any other person;

(c) by the credit information company or specified user, shall be disclosed for any other purpose than as permitted or required by any other law for the time being in force.

Failure to
become a
member of a
credit
information
company.

Collection and
furnishing of
credit
information.

26 of 1996.

18. (1) Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996, as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.

Settlement of dispute.

(2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided,—

(a) by the arbitrator to be appointed by the Reserve Bank;

(b) within three months of making a reference by the parties to the dispute;

Provided that the arbitrator may, after recording the reasons therefor, extend the said period up to a maximum period of six months:

26 of 1996.

Provided further that, in an appropriate case or cases, the Reserve Bank may, if it considers necessary to do so (reasons to be recorded in writing), direct the parties to the dispute to appoint an arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996, for settlement of their dispute in accordance with the provisions of that Act.

26 of 1996.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

CHAPTER VI

INFORMATION PRIVACY PRINCIPLES AND FURNISHING OF CREDIT INFORMATION

19. A credit information company or credit institution or specified user, as the case may be, in possession or control of credit information, shall take such steps (including security safeguards) as may be prescribed, to ensure that the data relating to the credit information maintained by them is accurate, complete, duly protected against any loss or unauthorised access or use or unauthorised disclosure thereof.

Accuracy and security of credit information.

20. Every credit information company, credit institution and specified user, shall adopt the following privacy principles in relation to collection, processing, collating, recording, preservation, secrecy, sharing and usage of credit information, namely:—

Privacy principles.

(a) the principles—

(i) which may be followed by every credit institution for collection of information from its borrowers and clients and by every credit information company, for collection of information from its member credit institutions or credit information companies, for processing, recording, protecting the data relating to credit information furnished by, or obtained from, their member credit institutions or credit information companies, as the case may be, and sharing of such data with specified users;

(ii) which may be adopted by every specified user for processing, recording, preserving and protecting the data relating to credit information furnished, or received, as the case may be, by it;

(iii) which may be adopted by every credit information company for allowing access to records containing credit information of borrowers and clients and alteration of such records in case of need to do so;

(b) the purpose for which the credit information may be used, restriction on such use and disclosure thereof;

(c) the extent of obligation to check accuracy of credit information before furnishing of such information to credit information companies or credit institutions or specified users, as the case may be;

(d) preservation of credit information maintained by every credit information company, credit institution, and specified user as the case may be (including the period for which such information may be maintained, manner of deletion of such information and maintenance of records of credit information);

(e) networking of credit information companies, credit institutions and specified users through electronic mode;

(f) any other principles and procedures relating to credit information which the Reserve Bank may consider necessary and appropriate and may be specified by regulations.

Alteration
of credit
information
files and credit
reports.

21. (1) Any person, who applies for grant or sanction of credit facility, from any credit institution, may request to such institution to furnish him a copy of the credit information obtained by such institution from the credit information company.

(2) Every credit institution shall, on receipt of request under sub-section (1), furnish to the person referred to in that sub-section a copy of the credit information subject to payment of such charges, as may be specified by regulations, by the Reserve Bank in this regard.

(3) If a credit information company or specified user or credit institution in possession or control of the credit information, has not updated the information maintained by it, a borrower or client may request all or any of them to update the information; whether by making an appropriate correction, or addition or otherwise, and on such request the credit information company or the specified user or the credit institution, as the case may be, shall take appropriate steps to update the credit information within thirty days after being requested to do so:

Provided that the credit information company and the specified user shall make the correction, deletion or addition in the credit information only after such correction, deletion or addition has been certified as correct by the concerned credit institution:

Provided further that no such correction, deletion or addition shall be made in the credit information if any dispute relating to such correction, deletion or addition is pending before any arbitrator or tribunal or court and in cases where such dispute is pending, the entries in the books of the concerned credit institution shall be taken into account for the purpose of credit information.

Unauthorised
access to credit
information.

22. (1) No person shall have access to credit information in the possession or control of a credit information company or a credit institution or a specified user unless the access is authorised by this Act or any other law for the time being in force or directed to do so by any court or tribunal and any such access to credit information without such authorisation or direction shall be considered as an unauthorised access to credit information.

(2) Any person who obtains unauthorised access to credit information as referred to in sub-section (1) shall be punishable with fine which may extend to one lakh rupees in respect of each offence and if he continues to have such unauthorised access, with further fine which may extend to ten thousand rupees for every day on which the default continues and such unauthorised credit information shall not be taken into account for any purpose.

CHAPTER VII

OFFENCES AND PENALTIES

Offences and
penalties.

23. (1) Whoever, in any return or other document or in any information required or furnished by, or under, or for the purposes of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully consents to make a material statement, shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Every credit information company or a credit institution or any specified user, wilfully, performing any act or engaging in any practice, in breach of any of the principles referred to in section 20, shall be punishable with fine not exceeding one crore rupees.

(3) Any credit information company or credit institution or specified user wilfully providing to any other credit information company or credit institution or specified user or

borrower or client, as the case may be, credit information which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with fine which may extend to one crore rupees.

(4) Any person who contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act, or makes default in complying with any requirement of this Act or of any rule or order made or direction issued thereunder, shall, if no specific provision is made under this Act for punishment of such contravention, obstruction or default, be punishable with fine which may extend to one lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to five thousand rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to the credit information company or credit institution or specified user for the conduct of its business, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of its chairperson, managing director, any other director, manager, secretary or other officer of the credit information company or the credit institution, such chairperson, managing director, any other director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

24. (1) No court shall take cognizance of any offence committed by a member of a credit information company and punishable under section 23 except upon a complaint in writing made by an officer of the credit information company generally or specially authorised in writing in this behalf by the credit information company or if so directed by the Reserve Bank so to do and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

Cognizance of offences.

Explanation.—For the purposes of this sub-section, "member of a credit information company" shall mean a member referred to in section 15.

(2) No court shall take cognizance of any offence committed by a credit information company punishable under section 23 except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorised in writing in this behalf by the Reserve Bank and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

25. (1) Notwithstanding anything contained in section 23, if a contravention or default of the nature referred to in sub-section (2) of section 22 or sub-section (2) or sub-section (3) or sub-section (4) of section 23, as the case may be, is made by a credit information company or a credit institution then, the Reserve Bank may impose on such credit information company or credit institution—

Power of Reserve Bank to impose penalty.

(i) where the contravention is of the nature referred to in sub-section (2) of section 22, a penalty not exceeding one lakh rupees;

(ii) where the contravention is of the nature referred to in sub-section (2) or sub-section (3) of section 23, a penalty not exceeding one crore rupees;

(iii) where the contravention is of the nature referred to in sub-section (4) of section 23, a penalty not exceeding one lakh rupees and where such contravention or default is continuing one, a further penalty which may extend to five thousand rupees for every day, after the first, during which the contravention or default continues.

(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on credit information company or credit institution or specified user, as the case may be, requiring it to show cause as to why the amount mentioned in the notice should not be imposed as penalty and a reasonable opportunity of being heard shall also be given to such credit information company or credit institution or specified user, as the case may be.

(3) No complaint shall be filed against credit information company or credit institution or specified user, as the case may be, in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Reserve Bank under this section.

(4) Any penalty imposed by the Reserve Bank under this Act shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the credit information company or credit institution or specified user, as the case may be, and in the event of failure of such credit information company or credit institution or specified user to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the credit information company or credit institution or specified user, being a company, is situated and in case of credit institution incorporated outside India, where its principal place of business in India is situated:

Provided that such direction under this sub-section shall be made only upon an application made in this behalf to the court by the Reserve Bank.

(5) The court which makes a direction under sub-section (4) shall issue a certificate mentioning therein the sum payable by a credit information company or credit institution or specified user, as the case may be, and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against credit information company or credit institution or specified user, as the case may be, in any court in respect of the contravention or default of the nature referred to in sub-section (2) of section 22 or sub-section (2) or sub-section (3) or sub-section (4) of section 23, then, no proceedings for the imposition of any penalty on the credit information company or credit institution or specified user shall be taken under this section.

Application of
Fines.

26. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or for such purposes as may be directed by the court.

CHAPTER VIII

MISCELLANEOUS

Power of
Reserve Bank
to specify
maximum
amount of fees.

27. The Reserve Bank may, specify, by regulations the maximum amount of fees leviable under sub-section (3) of section 14 for providing information to the specified users and for admissions of credit institutions or credit information companies as a member of a credit information company.

28. No chairperson, director, member, auditor, adviser, officer or other employee or agent employed in the business of a credit information company or in the business of a specified user shall, except for the purposes of this Act or when required to do so by any other law in force or court or tribunal or authority, disclose any information to any person.

Disclosure of information before any court or tribunal or authority.

29. (1) Every credit information company shall observe, except as otherwise required by law, the practices and usages customary among credit information companies and it shall not divulge any information relating to, or to the affairs of, its members or specified users.

Obligations to fidelity and secrecy.

(2) Every chairperson, director, member, auditor, adviser, officer or other employee of a credit information company shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form, as may be prescribed in this regard.

Explanation.—For the purposes of this section and section 30, the terms “practices and usages customary” means such practices and usages which, are generally followed by credit information companies or may develop in due course in relation to their functions, in pursuance of the provisions of this Act, rules and regulations made and directions issued thereunder from time to time in pursuance thereof.

30. (1) No suit or other legal proceedings or prosecution shall lie against the Reserve Bank or the Central Government or credit information company or credit institution, or their chairperson, director, member, auditor, adviser, officer or other employee, or agent or any person authorised by the Reserve Bank or the Central Government or credit information company or credit institution to discharge any function under this Act, for any loss or damage caused or as is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law for the time being in force.

Protection of action taken in good faith.

(2) Nothing contained in sub-section (1) shall affect the right of any person to claim damages against a credit information company, a credit institution or their chairperson, director, member, auditor, adviser, officer or other employee or agents, as the case may be, in respect of loss caused to him on account of any such disclosure made by anyone of them and which is unauthorised or fraudulent or contrary to provisions of this Act, or practices or usages customary among them.

31. No court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority, except the Supreme Court and a High Court exercising jurisdiction under articles 32, 226 and 227 of the Constitution, in relation to the matters referred to in sections 4, 5, 6, 7 and 18.

Bar of jurisdiction.

32. (1) The Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette, direct that any or all of the provisions of this Act shall not apply to any credit information company or a credit institution, as the case may be, either generally or for such period and subject to such exceptions or modifications, as may be mentioned in that notification.

Power of Reserve Bank to exempt in certain cases.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

33. The provisions of this Act shall be in addition to, and not, save as provided under this Act, in derogation of, the provisions of the Companies Act, 1956 or any other law for the time being in force.

Application of other laws not barred.

34. The enactments mentioned in the Schedule to this Act shall be amended in the manner specified therein.

Amendment of certain enactments.

Removal of
difficulties.

35. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to make
rules.

36. (1) The Central Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the authority or tribunal which may be designated under sub-section (1) of section 7;

(b) the steps to be taken by every credit information company or credit institution and specified user for ensuring accuracy, completeness of data and protection of data from any loss or unauthorised access or use or disclosure under section 19;

(c) the form in which a declaration of fidelity and secrecy shall be made under sub-section (2) of section 29;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of
Reserve Bank
to make
regulations.

37. (1) The Reserve Bank may make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the persons or institutions which may be specified as specified users under clause (1) of section 2;

(b) the form in which application may be made under sub-section (1) of section 4 and the manner of filing such application under that sub-section;

(c) any other form of business in which a credit information company may engage under clause (e) of sub-section (1) of section 14;

(d) the form of notice for collection and furnishing of information procedure relating thereto and purposes for which credit information may be provided under sub-sections (1) and (2) of section 17;

(e) the principles and procedures relating to credit information which may be specified under clause (f) of section 20;

(f) the amount which may be required to be paid for obtaining copy of credit information under sub-section (2) of section 21;

(g) the maximum amount of charges payable under section 27.

(3) Every regulation, as soon as may be after it is made by the Reserve Bank, shall be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

THE SCHEDULE

(See section 34)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Section 45E, sub-section (2), after clause (c), insert—

“(d) the disclosures of any credit information under the Credit Information Companies (Regulation) Act, 2005.”

PART II

THE BANKING REGULATION ACT, 1949

(10 OF 1949)

1. Section 19, after sub-section (3), insert—

“(4) Save as provided in clause (c) of sub-section (1), a banking company may form a subsidiary company to carry on the business of credit information in accordance with the Credit Information Companies (Regulation) Act, 2005.”

2. Section 28, for “publish any information obtained by them under this Act in such consolidated form as they think fit”, substitute—

“publish—

(a) any information obtained by them under this Act in such consolidated form as they think fit;

(b) in such manner as they may consider proper, any credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART III

THE STATE FINANCIAL CORPORATION ACT, 1951

(63 OF 1951)

Section 40, after sub-section (3), insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART IV

THE STATE BANK OF INDIA ACT, 1955

(23 OF 1955)

Section 44, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART V

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

(38 OF 1959)

Section 52, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

VI-EX-34-5

PART VI

THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

(47 OF 1961)

Section 39, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART VII

THE STATE AGRICULTURAL CREDIT CORPORATIONS ACT, 1968

(60 OF 1968)

Section 40, insert—

“Provided that nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART VIII

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

(5 OF 1970)

Section 13, after sub-section (3), insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART IX

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

(40 OF 1980)

Section 13, after sub-section (3), insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART X

THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

(28 OF 1981)

Section 30, after sub-section (3), insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART XI

THE NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT ACT, 1981

(61 OF 1981)

Section 51, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART XII

THE PUBLIC FINANCIAL INSTITUTIONS (OBLIGATION AS TO FIDELITY AND SECRECY) ACT, 1983
(48 OF 1983)

Section 3, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”.

PART XIII

THE NATIONAL HOUSING BANK ACT, 1987
(53 OF 1987)

Section 44, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”.

PART XIV

THE REGIONAL RURAL BANKS ACT, 1976
(21 OF 1976)

Section 25, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,
Secretary to Government.

Government Central Press, Gandhinagar.